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March 23, 2026

TO:

Jerome County Planning and Zoning Commission
Jerome County Board of County Commissioners
300 North Lincoln Ave, Jerome, ID 83338 (County Recipients)

RE: Official Submittal — Jerome County Energy Ordinance Reform Package

Dear Members of the Planning and Zoning Commission, Board of County Commissioners, County Clerk, and State Archivist:

I hereby submit for official record the complete **Jerome County Energy Ordinance Reform Package**, consisting of seventeen (17) documents enumerated below. This package constitutes a comprehensive citizen proposal for the regulation of energy facilities and data center developments in Jerome County, prepared in response to the Planning and Zoning Commission's recommendations of February 23, 2026.

I respectfully request that this package be: (1) entered into the official record of any pending or future proceedings related to the Jerome County Comprehensive Plan (Chapter 10), Zoning Ordinance (Chapters 7 and 11), and energy facility regulation; (2) formally received by the Board of County Commissioners as a citizen submittal; (3) filed with the County Clerk as a matter of public record; and (4) accepted by the Idaho State Archives for permanent archival as a record of citizen participation in local governance.

This package is submitted in full. No individual document should be separated from or considered independent of the complete package, as the documents are designed to operate as an integrated regulatory framework.

Why Seventeen Documents. Jerome County's energy ordinance touches seventeen distinct legal and policy domains, and each one requires its own documented evidence. The seventeen documents are not seventeen versions of the same argument. They fall into four functional categories, each serving a different legal purpose:

> **The Law Itself** (Documents 3–5): The three revised ordinance chapters — Chapters 7, 10, and 11 — are the actual regulatory language proposed for adoption. If Commissioners read nothing else, they should read these.

The Evidentiary Record (Documents 1–2, 6, 14): The submittal letter, package guide, P&Z response, and mailing list create the procedural record. If the ordinance is challenged in court, these prove the county followed proper process, considered the evidence, and made a deliberate choice.

The Evidence Base (Documents 7–11, 15–17): Position papers, supplements, the legal defensibility analysis, fiscal impact analysis, and CSPM framework application. These exist because every standard in the ordinance needs a documented factual basis. A court will ask "why 125% bonds?" or "why prohibit Class I/II soils?" — and the answer needs to be in the record, not in someone's memory of a meeting.

The Reference Materials (Documents 12–13): The glossary and sources catalog prevent ambiguity and provide the citation framework underlying the entire package.

An engineer does not hand you a bridge and say "trust me." They hand you the blueprints, the soil report, the load calculations, and the inspection schedule. Three documents in this package are the bridge. The other fourteen are the engineering.

ENUMERATED DOCUMENT LIST

Documents are numbered in logical reading order. Category labels indicate each document's functional role in the package.

#	Document Title	Description / Purpose
	PROCEDURAL RECORD	
1	**Letter of Submittal**	This document. Official transmittal and request for entry into the public record.
2	**Document Package Guide and Table of Contents**	Overview, integration notes, document descriptions, P&Z summary, and usage instructions for Commissioners, public, and media.
	THE LAW ITSELF — PROPOSED ORDINANCE LANGUAGE	
3	**REVISED Chapter 10 — Utilities (Comprehensive Plan)**	Comprehensive Plan: Agricultural protection policy posture, CSPM-informed energy siting framework, Class I/II soil prohibition as plan-level policy.
4	**REVISED Chapter 11 — Energy Facilities**	Zoning Ordinance: Three-tier classification (Tier 1/2/3), objective impact standards, setbacks, noise limits, decommissioning bonds, anti-circumvention, data center provisions.
5	**REVISED Chapter 7 — Conditional Use**	Zoning Ordinance: Enhanced CUP procedures with required findings, public participation rights, enforcement, and energy-specific provisions.
	EVIDENTIARY RECORD	

6	**Response to P&Z Commission Recommendations**	Formal rebuttal to Commission Findings 1, 2, 4, and 5 with 20+ footnoted citations to federal agencies, peer-reviewed research, and enacted legislation.
7	**Position Paper: Property Rights & Community Notification**	Constitutional property rights framework, county-wide/25-mile notification justification, principled limits on the right to build.
8	**Position Document: Legal, Ethical & Moral Justification**	Legal authority (positive law, constitutional framework), ethical principles (non-harm, informed consent, intergenerational justice), moral foundations (natural law, ordered liberty, stewardship).
9	**Position Paper: The Data Center Crisis**	Documents speculative data center overbuilding ($700B in projected 2026 spending), stranded asset risks, and systematic cost externalization to rural communities.
10	**Supplement: Water Resources & Utility Rate Impacts**	Idaho ESPA groundwater crisis (75,300 ac-ft shortfall), data center water consumption, national utility rate increases, state/federal legislative responses.
11	**Supplement: Community Survey & National Public Opinion**	Complete JTown Beacon survey results (65 respondents, 10 questions) and national public opinion context documenting rural opposition patterns.
15	**Legal Framework and Defensibility Analysis**	Constitutional, statutory, and regulatory defensibility analysis for every major provision — takings, due process, preemption risk, Dillon's Rule, BESS prohibition.
16	**Fiscal Impact and Tax Revenue Analysis**	Tax revenue trade-offs, stranded asset risk, PILOT/incentive analysis, utility rate impacts, and net fiscal equation comparing regulation vs. unrestricted development.
17	**CSPM Framework Application and Methodology**	Formal application of the County Siting Posture Metric to Jerome County. 100-point scoring across six dimensions. Score: 80.0 (restrictive posture justified).
	REFERENCE MATERIALS	
12	**Glossary of Definitions and Key Terms**	Complete glossary of all legal, technical, agricultural, and regulatory terms used across the package, organized by category.
13	**Summary of Sources by Category**	Catalog of every source cited — federal agencies, peer-reviewed research, state/federal legislation, county precedents, constitutional case law, utility/market data.
14	**Recipient Mailing List**	Complete distribution list for the reform package — elected officials, county staff, state agencies, and community stakeholders.

I request that receipt of this submittal be acknowledged in writing to the address and email provided above. I further request that this submittal and all enclosed documents be made available for public inspection as required by the Idaho Open Records Act, Idaho Code §74-101 et seq.

How you choose to view, review, and/or implement these recommendations is obviously out of my control. I am not looking for any credit now or in the future for this submission; my name is attached only for accountability and transparency.

Thank you for your service to Jerome County and for your consideration of this submittal.

Respectfully submitted,

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Jeff Pierson
Owner, Confidential Solutions LLC
713 East Ave C, Jerome, Idaho
March 23, 2026

DOCUMENT REVISION HISTORY

Letter of Submittal

Version	Date	Changes / Updates	Reviewed By
v1	Mar 2026	Initial submittal letter with 11-document package listing	J. Pierson
v5	Mar 22, 2026	Reformatted document table, added CC list, State Archives distribution	J. Pierson
v6	Mar 23, 2026	Expanded to 17-document package. Added 'Why Seventeen Documents' section with four-category breakdown and bridge analogy. Reorganized document table with category headers. Added Docs 15-17 (Legal Framework, Fiscal Impact, CSPM). Added IdahoEnergy logo to footer.	J. Pierson

REVIEW NOTES

JEROME COUNTY ENERGY ORDINANCE REFORM

Document Package Guide and Table of Contents

Jeff Pierson, Confidential Solutions LLC | 713 East Ave C, Jerome, Idaho | March 2026

Overview

This guide accompanies a package of seventeen documents prepared in response to the Jerome County Planning and Zoning Commission's recommendations of February 23, 2026. Together, these documents constitute a complete, integrated citizen proposal for the regulation of energy facilities and data center developments in Jerome County—covering the Comprehensive Plan, the Zoning Ordinance, the formal record before the Board of County Commissioners, policy position papers, a glossary of definitions, a comprehensive source catalog, two supplements documenting water/infrastructure vulnerabilities and community survey evidence in national context, a legal defensibility analysis, a fiscal impact analysis, and the County Siting Posture Metric (CSPM) framework application. The package is supported by the **JTown Beacon Community Survey (March 2026, 65 respondents)**, which provides direct evidence of near-unanimous community support for the protective standards proposed here: 93.8% prioritize agricultural preservation, 93.7% oppose large-scale energy in agricultural zones, 90.8% support county-wide notification, and 80% say the current regulatory approach needs significant revision.

The package is further strengthened by Idaho House Concurrent Resolution 32 (HCR032), adopted March 16, 2026, which declares that energy infrastructure harming agriculture, water resources, or rural communities is inconsistent with state policy and affirms that private property rights, local land use authority, and agricultural protection are 'paramount considerations' in energy siting. Each document is designed to reinforce the others. The Comprehensive Plan (Chapter 10) sets policy direction. The Zoning Ordinance chapters (7 and 11) implement that direction through enforceable legal standards. The Response to the P&Z Commission provides the evidentiary record that supports the Board in adopting standards stronger than those the Commission recommended. The Position Paper on Property Rights and Community Notification provides the broader policy framework—grounding the entire package in constitutional property rights principles and the democratic imperative of expanded public participation for large-scale energy and data center projects.

Document Package — Table of Contents

#	Document	Purpose
3	**REVISED Chapter 10 — Utilities (Comprehensive Plan)**	Comprehensive Plan: Establishes agricultural protection policy posture, CSPM-informed energy siting framework, and Class I/II soil prohibition as plan-level policy

4	**REVISED Chapter 11 — Energy Facilities**	Zoning Ordinance: Full tiered classification (Tier 1/2/3), objective impact standards, setbacks, noise limits, decommissioning, anti-circumvention, and enforcement
5	**REVISED Chapter 7 — Conditional Use**	Zoning Ordinance: Enhanced CUP procedures with required findings, public participation rights, enforcement, and energy-specific provisions
6	**Response to P&Z Recommendations**	Formal rebuttal to Commission Findings 1, 2, 4, and 5 with 20+ footnoted citations to USDA, NRCS, PNAS, Berkeley Lab, AFT, and enacted legislation
7	**Position Paper: Property Rights & Community Notification**	Policy framework establishing constitutional property rights basis, county-wide/25-mile notification for all Tier 2/3 energy and data center projects, and principled limits on the right to build
8	**Position Document: Legal, Ethical & Moral Justification**	Establishes the legal authority (positive law, constitutional framework), ethical principles (non-harm, informed consent, intergenerational justice), and moral foundations (natural law, ordered liberty, stewardship) underlying the entire ordinance package
9	**Position Paper: The Data Center Crisis**	Documents how speculative data center overbuilding is creating a national crisis — $700B in projected 2026 spending, 30–50% pipeline delays, stranded asset risks, and systematic cost externalization to rural communities through higher rates, water depletion, and agricultural conversion
10	**Supplement: Water Resources & Utility Rate Impacts**	Documents Idaho's ESPA groundwater crisis, data center water consumption at scale, national utility rate increases, and state/federal legislative responses — establishing the water and infrastructure vulnerability context for the ordinance package
11	**Supplement: Community Survey Evidence & National Public Opinion**	Complete JTown Beacon Community Survey results (all 10 questions) and national public opinion context — documenting that Jerome County's concerns mirror a nationwide pattern of rural opposition to large-scale energy and data center development
12	**Glossary of Definitions and Key Terms**	Complete glossary of all legal, technical, agricultural, and regulatory terms used across the document package, organized by category
13	**Summary of Sources by Category**	Catalog of every source cited across the package — federal agencies, peer-reviewed research, state/federal legislation, county precedents, constitutional case law, utility/market data, national opinion data
14	**Recipient Mailing List**	Complete distribution list for the reform package — elected officials, county staff, state agencies, and community stakeholders
15	**Legal Framework and Defensibility Analysis**	Constitutional, statutory, and regulatory defensibility analysis for every provision in the reform package —

		takings, due process, preemption, Dillon's Rule, and BESS prohibition
16	**Fiscal Impact and Tax Revenue Analysis**	Tax revenue trade-offs, stranded asset risk, utility rate impacts, PILOT/incentive analysis, and net fiscal equation comparing unrestricted development vs. reform package protections
17	**CSPM Framework Application and Methodology**	Application of the County Siting Posture Metric to Jerome County — 100-point structured scoring framework across six dimensions, with documented findings supporting a restrictive posture (score: 80.0)

Document 1: REVISED Chapter 7 — Conditional Use

File: 1. Chapter_7_Conditional_Use-03222026_v5.docx

What It Does

This revised Chapter 7 transforms Jerome County's Conditional Use Permit (CUP) procedures into a robust framework for protecting agricultural land and ensuring public participation in energy facility decisions. It establishes clear required findings that the County must make before approving large-scale projects, including explicit protections for prime agricultural soils, water resources, and rural character.

Key Provisions

Enhanced CUP procedures require applicants to demonstrate that projects (1) will not materially harm agricultural productivity on prime soils, (2) are necessary to serve local needs or fit within regional infrastructure plans, (3) include mitigation measures addressing documented impacts, and (4) provide for ongoing community notification and enforcement. A new 'Required Findings' section gives the County Commission an explicit legal standard for review. For energy projects specifically, the ordinance requires an agricultural impact assessment, identification of alternative sites, water availability verification, and a decommissioning and restoration plan with financial assurance at 150% of removal costs. Public notice is expanded to all properties within 500 feet (residential) and 1 mile (agricultural zones) and must include a summary of major conditions and impact mitigation measures.

How It Integrates

Chapter 7 provides the procedural framework that brings Chapters 10 and 11 policies into real-world application. When an applicant applies for a CUP to build an energy facility, Chapter 7's required findings force the County to evaluate the project against explicit standards rooted in Chapter 10's comprehensive plan policy and Chapter 11's objective impact standards. The expansion of public notice rights directly reflects the Position Paper on Property Rights and Community Notification. The required agricultural impact assessment and alternatives analysis connect to the evidence presented in the Response to P&Z Recommendations.

Document 2: REVISED Chapter 10 — Utilities & Comprehensive Plan

File: 3. Chapter_10_Utilities_Comprehensive_Plan-03222026_v5.docx

What It Does

This revised Chapter 10 establishes Jerome County's comprehensive plan policy framework for energy siting and agricultural protection. It moves beyond passive acceptance of energy development to proactive policy that prioritizes agricultural protection, aligns with the Conservation Security and Preservation Management (CSPM) framework used by the USDA and NRCS, and incorporates findings from Idaho HCR032 into county policy.

Key Provisions

Chapter 10 establishes that Jerome County's primary energy siting policy is: (1) Class I and Class II agricultural soils are categorically prohibited for large-scale energy facilities; (2) energy facility siting should follow the CSPM framework, which prioritizes protection of high-value agricultural land, water resources, and ecosystem services; (3) state law alignment requires considering impacts on agriculture, water, and rural communities as 'paramount'; (4) data center facilities must demonstrate benefit to Idaho ratepayers and must not externalize costs onto local communities; (5) developer notification requirements extend county-wide and 25 miles beyond county borders for projects over 25 MW; and (6) the comprehensive plan is updated to define 'agricultural protection' as a primary planning objective alongside public health, safety, and welfare.

How It Integrates

Chapter 10 is the policy anchor for the entire ordinance package. It establishes the 'why'—the policy direction—while Chapters 7 and 11 establish the 'how'—the enforceable procedures and standards. The Response to P&Z Recommendations provides the evidentiary support for the policy choices made in Chapter 10. The CSPM framework and the agricultural soil protections connect directly to the sources cited in the Sources document and to the national pattern of agricultural land conversion documented in the Position Paper on the Data Center Crisis.

Document 3: REVISED Chapter 11 — Energy Facilities

File: 4. Chapter_11_Energy_Facilities-03222026_v5.docx

What It Does

This revised Chapter 11 is the operational heart of the ordinance package. It establishes a comprehensive, tiered classification system for all energy facilities (solar, wind, battery storage, data centers) based on capacity and location, with objective impact standards covering 11 categories of impacts: noise, setbacks, property value, water, shadow/flicker, traffic, electromagnetic fields, decommissioning, anti-circumvention, general welfare, and enforcement mechanisms.

Key Provisions

Chapter 11 establishes three tiers: Tier 1 (under 50 kW, minimal standards), Tier 2 (50 kW–25 MW, moderate standards), and Tier 3 (over 25 MW, maximum protection). For Tier 2 and 3 facilities, the ordinance establishes: setback minimums (1.5x height for residential, 2x height for sensitive uses), noise limits (45 dB at property line day/night), property value impact mitigation (title notice on adjacent properties), water use impact mitigation (water availability verification and impact assessments), shadow/flicker studies for solar, electromagnetic field disclosure, transportation impact assessments, and decommissioning financial assurance at 150% of verified removal costs. An anti-circumvention clause prevents developers from splitting large projects into multiple small projects to avoid Tier 2/3 standards. Data center facilities are treated as Tier 3 regardless of nameplate capacity. General welfare language is outcome-based: projects must demonstrably benefit Jerome County residents and not externalize costs to the community.

How It Integrates

Chapter 11 operationalizes the policy and procedures of Chapters 10 and 7. The tiered approach allows flexibility for small projects while providing robust protection for large-scale industrial energy development. The 11 impact categories are derived from peer-reviewed research, documented community concerns (JTown Beacon Survey), and precedent from other jurisdictions (Bannock County, Maryland counties). The anti-circumvention clause prevents the common practice of splitting large projects. The decommissioning standard (150%) matches Boone County, Indiana precedent and ensures that the County, not taxpayers, bears the cost of site restoration.

Document 4: Response to P&Z Recommendations

File: 5. Response_to_PZ_Recommendations-03222026_v5.docx

What It Does

This document provides the formal, evidentiary response to the P&Z Commission's recommendations from February 23, 2026. It focuses on Findings 1, 2, 4, and 5—the findings where the County Commission should adopt stronger standards than those recommended by the Commission. Each response is supported by 20+ footnoted citations to federal agencies, peer-reviewed research, state legislation, and county precedents.

Key Evidence

Finding 1 (property value impact): Hoen et al. (PNAS 2025, Berkeley Lab 2023) documents 4.8% property value decline within 1 mile of utility-scale solar. For Finding 2 (agricultural impacts): USDA NRCS conservation guidance and research from North Carolina State University and Welsh Government establish soil compaction, erosion, and recovery timescales of 18–30 years. For Finding 4 (water impacts): IDWR shortfall determinations establish that the ESPA is already in deficit with zero margin for new large-scale industrial water demand; data center consumption can reach 5 million gallons per day. For Finding 5 (regulatory framework): Bannock County's solar/wind ban, Maryland county precedents, and Idaho HCR032 establish

that strong agricultural protection through land use ordinance is consistent with state policy and established practice.

How It Integrates

The Response to P&Z provides the evidentiary foundation for every standard in Chapters 7, 10, and 11. It integrates the JTown Beacon Survey (showing 93.8% community support for agricultural protection), HCR032 (establishing state-level policy alignment), and the peer-reviewed research catalog in the Sources document. The response directly addresses the P&Z Commission's findings and explains why stronger standards are legally justified, scientifically sound, and consistent with community values.

Document 5: Position Paper — Property Rights & Community Notification

File: 6. Position_Paper_Property_Rights-03222026_v5.docx

What It Does

This position paper establishes the constitutional and policy foundations for the entire ordinance package. It grounded the package in property rights principles—both the property rights of existing residents to be protected from harm and the property rights of developers to be subject to reasonable land use regulation. It explains why community notification is not a 'burden' on developers but a fundamental democratic requirement.

Key Arguments

The paper establishes that private property rights are not absolute; they exist within a framework of mutual obligation. The common law maxim 'sic utere tuo ut alienum non laedas' ('use your own property so as not to harm another's') is foundational to all land use regulation. A property owner has no vested right in maximizing the economic extraction of property (Penn Central; Dolan). County-wide notification for large-scale energy projects is consistent with the nexus and rough proportionality standards established in Nollan and Dolan: large projects create costs to the community (water depletion, infrastructure strain, property value impacts, emergency services), and notification is proportional to those impacts. The paper further establishes that the current narrow notification radius (typically 300 feet) is inadequate because energy facility impacts extend 1–3 miles (property value), involve regional water resources (ESPA extends across the region), and affect rural character across the entire county. Expanding notification to 25 miles for projects over 25 MW is justified by documented impact ranges.

How It Integrates

This position paper provides the philosophical and constitutional backbone for the practical standards in Chapters 7, 11, and the Zoning Ordinance. It directly addresses the political pushback that ordinances like these sometimes face ('Why should we restrict property rights?') by establishing that property rights and land use regulation are not opposed but complementary. The paper cites the same constitutional authorities (Penn Central, Dolan, Nollan) that a court

would use if the ordinance were challenged. The discussion of notification connects to the JTown Beacon Survey results showing 90.8% community support for county-wide notification.

Document 6: Position Document — Legal, Ethical & Moral Justification

File: 7. Legal_Ethical_Moral_Justification-03222026_v5.docx

What It Does

This position document provides a comprehensive three-dimensional justification for the ordinance package: the legal dimension (constitutional law and statutory authority), the ethical dimension (principles of non-harm, informed consent, and intergenerational justice), and the moral dimension (natural law, ordered liberty, and stewardship). It establishes that the ordinance package is not merely technically sound but morally coherent.

Key Arguments

The Legal dimension establishes: (1) positive law—state enabling statutes (Idaho Code 67-6501 et seq.) authorize counties to adopt zoning ordinances and comprehensive plans; (2) constitutional framework—the Fifth Amendment takings clause, the equal protection and due process clauses, and the Declaration of Independence's assertion that government exists to secure natural rights; (3) land use regulation precedent—Euclid v. Ambler established zoning as a valid police power exercise. The Ethical dimension establishes three core principles: (1) non-harm—the principle that people should not cause harm to others, especially not for profit; (2) informed consent—the principle that those affected by decisions should have genuine opportunity to participate in making them; (3) intergenerational justice—the principle that current decisions should not foreclose options for future generations. The Moral dimension establishes: (1) natural law—the idea that justice derives from inherent human dignity and natural order, not merely from positive law; (2) ordered liberty—the Palko principle that freedom exists within a framework of mutual obligation; (3) stewardship—the principle that those entrusted with control of land should exercise that control in service to the community and future generations.

How It Integrates

This position document provides the deepest context for why the ordinance package matters. It moves beyond technical/legal arguments to address the fundamental question: 'What kind of community does Jerome County want to be?' It establishes that protecting agricultural land and limiting extractive energy development is not about restricting economic activity but about maintaining conditions for human flourishing. The document cites natural law and constitutional sources that connect the ordinance to fundamental American principles.

Document 7: Position Paper — The Data Center Crisis

File: 8. Data_Center_Crisis_Position_Paper-03222026_v5.docx

What It Does

This position paper documents the national data center bubble and speculative overbuilding crisis. It establishes that the promises made by data center developers (massive tax revenue, high-quality jobs, economic transformation) are not supported by actual data, and that communities that host data centers typically experience cost externalization rather than net benefit.

Key Evidence

Goldman Sachs projects $700 billion in AI buildout spending by four hyperscalers in 2026, with CEO David Solomon acknowledging that 'a lot of capital deployed won't deliver returns.' The industry is characterized by overbuilding, speculative capital, resource extraction, techno-utopian marketing, hollow applications, and stranded asset risk. Sightline Climate analysis shows that 30–50% of announced 2026 data center pipeline is unlikely to come online; 11 GW shows no signs of construction. Meanwhile, electricity costs are rising: utilities requested $31 billion in rate increases in 2025 (double 2024), and Goldman Sachs projects 6% consumer electricity inflation 2026–2027. In rural areas, a 12 MW data center creates approximately 20 jobs—a public cost per job exceeding $1–2M when infrastructure costs are included. Stranded asset risk is high: if the data center bubble bursts, the facility is economically worthless and becomes a long-term liability.

How It Integrates

This position paper provides essential context for understanding why the ordinance package focuses so heavily on data center regulation. It establishes that the common argument 'We can't regulate data centers; we'll lose out to other counties' is based on a misconception: data center development is so overbuilt that 30–50% of announced projects won't happen regardless. Jerome County is not 'losing' projects if it declines to host them; those projects are likely to be cancelled anyway. The paper further establishes that permitting a data center for speculative promise of jobs and tax revenue—when the evidence shows high risk of stranded assets and cost externalization—is irrational. The ordinance package is designed to allow beneficial data center development while preventing harmful speculative overbuilding.

Document 8: Supplement — Water Resources & Utility Rate Impacts

File: 9. Water_Utilities_Supplement-03222026_v5.docx

What It Does

This supplement documents the Eastern Snake Plain Aquifer (ESPA) water crisis in Idaho and establishes the national pattern of utility rate increases caused by data center development. It provides the technical and regulatory context for water-related provisions in Chapters 7, 10, and 11.

Key Evidence

The Idaho Department of Water Resources identified a 75,300 acre-foot shortfall in the ESPA by July 2025, with curtailment ordered for all junior groundwater rights after October 11, 1900—the earliest cutoff date ever established. The aquifer is in structural deficit with no margin for

new large-scale industrial demand. A single data center can consume 5 million gallons per day. Meanwhile, utilities nationwide are requesting massive rate increases: S&P Global found $29 billion in rate increase requests in the first half of 2025 alone (double the prior year). In Virginia, data center demand contributed substantially to electricity price increases of up to 267% over five years. The PJM Interconnection's 2025–26 capacity market shows data centers accounted for estimated $9.3 billion price increase, with residential bills rising $16–18/month in affected states. Over 60 pieces of data center legislation were introduced across 22 states in 2025, most focused on ratepayer protection, water use disclosure, or moratoriums.

How It Integrates

The Water Supplement provides technical support for the environmental and infrastructure impact standards in Chapters 7 and 11. It establishes why water use verification (Chapter 7 requirement) and water impact assessments (Chapter 11 requirement) are not excessive but necessary. The supplement also establishes that Jerome County is not alone in facing this crisis: 22 states are actively legislating data center impacts, and the ESPA crisis is a known constraint that must be considered in any land use decision.

Document 9: Supplement — Community Survey & National Public Opinion

File: 10. Survey_Public_Opinion_Supplement-03222026_v5.docx

What It Does

This supplement documents the complete JTown Beacon Community Survey (all 10 questions) and establishes that Jerome County's concerns about energy facility siting mirror a nationwide pattern of rural opposition to large-scale energy and data center development. It provides direct evidence that community support for the ordinance package is not isolated but part of a national movement.

Key Evidence

The JTown Beacon Survey (March 2026, 65 respondents) shows: 93.8% rate agricultural preservation as important/extremely important; 93.7% oppose large-scale energy in agricultural zones; 49.2% support small-scale on-site in ag zones, 29.2% oppose; 92.3% concerned about battery storage safety; 90.8% support county-wide notification; 90.8% rate decommissioning assurance as extremely important; 87.7% say development should be limited to protect farmland; 80% say current approach needs significant revision. This data is contextualized within national polling: Pew Research (June 2024) found rural residents more skeptical of renewable development than urban residents; AP-NORC (June 2025) documents significant decline in offshore wind support (59% to 44%). Data Center Watch tracks $64 billion in blocked/delayed projects since mid-2024; 117 renewable energy projects rejected nationwide in 2024 (39 wind, 78 solar); at least 188 organized opposition groups span 40 states; 14+ states enacted or proposed moratoriums.

How It Integrates

The Survey Supplement documents that the ordinance package reflects genuine community values, not outside agitation. The 90.8% support for county-wide notification, the 93.8% support for agricultural protection, and the 80% statement that current approach needs revision are powerful evidence that the County Commission is responding to community preferences when it adopts ordinances based on this package. The national data further establishes that Jerome County is part of a nationwide pattern: rural communities are rejecting large-scale energy development on agricultural land, and legislators/regulators are responding with stronger protections.

Document 10: Glossary of Definitions and Key Terms

File: 11. Glossary_of_Definitions-03222026_v5.docx

What It Does

This glossary defines every legal, technical, agricultural, and regulatory term used across the ordinance package. It ensures that all parties—County Commissioners, applicants, attorney, community members—are working from a shared understanding of key concepts.

Key Categories

The glossary includes 8+ categories: (1) Agricultural terms (prime agricultural soils, Class I/II soils, USDA soil classification, irreversible conversion, agricultural impact assessment); (2) Energy facility terms (Tier 1/2/3, nameplate capacity, rated output, anti-circumvention, decommissioning, renewable energy facility, energy storage facility, data center); (3) Environmental/water terms (ESPA, acre-foot, water impact assessment, groundwater, surface water, water availability); (4) Regulatory/procedural terms (Conditional Use Permit, required findings, mitigation measure, notice radius, neighboring property); (5) Impact assessment terms (noise, setback, property value, flicker, shadow), and more. Each definition is precise enough for legal and regulatory use while remaining accessible.

How It Integrates

The Glossary ensures legal certainty and prevents disputes about interpretation. When the ordinance says 'large-scale energy facility,' the glossary defines it. When a mitigation measure refers to 'agricultural impact assessment,' the glossary defines what that means. This prevents years of litigation over definitional disputes.

Document 11: Summary of Sources by Category

File: 12. Sources_by_Category-03222026_v5.docx

What It Does

This document catalogs every source cited across the entire package. It is organized by 11 categories: federal agencies, peer-reviewed research, state legislation, county-level precedents, constitutional case law, utility/market data, water resources, community survey data, national public opinion, data center crisis research, and natural law/legal philosophy. Each entry identifies the source, what it establishes, and where it is cited across the package.

Key Authorities

Federal: USDA NRCS conservation guidance, EPA RE-Powering America's Land Initiative (190,000+ acres of pre-screened disturbed land), Congressional Research Service data center study, U.S. EIA electricity price data. Research: Hoen et al. (PNAS 2025, Berkeley Lab) property value impacts, NC State/Welsh Government soil recovery research, American Farmland Trust, George Mason University data center analysis. State/County: Idaho SB 1133 (solar/wind ban on APAs), Idaho HCR032 (energy sovereignty resolution), Bannock County solar/wind ban, Maryland county soil protections. Constitutional: Euclid v. Ambler (zoning authority), Penn Central (takings), Nollan/Dolan (nexus and rough proportionality). Data: Virginia SCC rate increases, S&P Global rate increase tracking, PJM capacity market data, Brookings water impact analysis. Natural Law: Locke, Declaration of Independence, Palko (ordered liberty), maxim 'sic utere tuo ut alienum non laedas.'

How It Integrates

The Sources document is the credibility foundation for the entire package. Every claim made in Chapters 7, 10, 11, and the position papers is sourced. This makes the package defensible: if challenged, the County can point to peer-reviewed research, federal agency guidance, constitutional case law, and enacted legislation supporting each standard. The 60+ sources span federal, state, local, academic, and constitutional domains, creating a multi-layered foundation for the ordinance.

Document 12: Legal Framework and Defensibility Analysis

File: 15. Legal_Framework_Defensibility-03222026_v5.docx

What It Does

This document demonstrates that every provision in the reform package has been designed with constitutional and statutory defensibility as a foundational requirement. It evaluates each major provision against applicable legal standards — including Dillon’s Rule, the Takings Clause (5th Amendment and Idaho Constitution Art. I, §14), due process, equal protection, and state preemption risk.

Key Analysis

The analysis covers: (1) Statutory authority under Idaho Code §67-6511, §67-6509, §67-6512, and HCR032; (2) Takings analysis for the three-tier system, Class I/II soil prohibition, BESS ban, decommissioning bonds, and data center definitions; (3) Due process defensibility of the notification radius; (4) The BESS agricultural zone prohibition as the highest relative risk provision, with recommendations for strengthening its legal basis; (5) Preemption risk assessment showing LOW current risk and MODERATE future risk; and (6) A comprehensive defensibility matrix rating every provision. The conclusion: adopt the package as proposed, with consideration of a narrow conditional pathway for small-scale BESS if additional legal margin is desired.

How It Integrates

This document should be read alongside Document 8 (Legal, Ethical & Moral Justification), which provides the affirmative constitutional basis. Document 15 addresses potential challenges. Together they provide both sword and shield. The analysis also connects to Document 17 (CSPM), which provides the structured evidentiary record that defends the ordinance against claims of arbitrary regulation.

Document 13: Fiscal Impact and Tax Revenue Analysis

File: 16. Fiscal_Impact_Tax_Revenue-03222026_v5.docx

What It Does

This document examines the actual fiscal dynamics of energy development regulation and demonstrates that responsible regulation protects the county's long-term fiscal position. It addresses the most common objection to the reform package: "this will cost the county tax revenue."

Key Analysis

The analysis documents: (1) Agricultural land's role as a stable, recurring tax base that does not depend on market cycles or corporate decisions; (2) The tax revenue illusion created by PILOT agreements, investment tax credits, renewable energy exemptions, and TIF districts that reduce effective rates by 50–80%; (3) Stranded asset risk if the $700B AI bubble deflates, leaving the county with decommissioned facilities, zero tax revenue, and $5–15M cleanup costs per installation; (4) Utility rate impacts from Idaho Power's 7.48% increase and projected 50–75% capacity expansion; (5) A net fiscal equation comparing unrestricted development vs. the reform package across eight fiscal factors; and (6) A direct response to the "we need the tax base" argument using CSPM Economic Conditions scoring.

How It Integrates

This document directly supports the 125% decommissioning bond requirement in Chapter 11, the data center crisis analysis in Document 9, the water/utility rate analysis in Document 10, and the CSPM Economic Conditions dimension in Document 17. It provides the fiscal evidence base that the Board needs to counter developer arguments about tax revenue loss.

Document 14: CSPM Framework Application and Methodology

File: 17. CSPM_Framework_Application-03222026_v5.docx

What It Does

This document formally applies the County Siting Posture Metric (CSPM) to Jerome County. The CSPM is a 100-point structured scoring framework that evaluates where a county sits on the spectrum from 'open for regulated development' to 'ban justified.' It is the analytical foundation referenced in Chapter 10 (Comprehensive Plan) that justifies the county's restrictive regulatory posture.

Key Analysis

The CSPM scores six dimensions: Infrastructure Capacity (×2.5 weight), Agricultural Protection (×2.0), Regulatory Capacity (×1.5), Community/Plan Alignment (×1.5), Economic Conditions (×1.5, inverted), and Cumulative/Regional Pressure (×1.0). Jerome County's documented scores: Infrastructure 8, Agriculture 9, Regulatory Capacity 7, Community Alignment 9, Economic Conditions 2 (inverted to 8), Cumulative Pressure 6. Total CSPM score: 80.0 — placing Jerome County at the threshold of the 'Ban Justified' range (80–100). The reform package opts for structured regulation rather than outright prohibition, which is a MORE moderate response than the CSPM score alone would justify.

How It Integrates

The CSPM operates at the POLICY level (Chapter 10), NOT the project level. It justifies WHY the county's ordinance is restrictive. The Environmental Impact Assessment (EIA) in Chapter 11 operates at the PROJECT level for Tier 3 applications. They do different jobs: the CSPM provides the evidentiary basis for the framework; the EIA implements it case by case. The CSPM scores draw on data from Document 10 (Water/Infrastructure), Document 11 (Community Survey), Document 9 (Data Center Crisis), and Document 15 (Legal Framework). It is the analytical keystone that ties the entire package together.

Summary of Planning & Zoning Commission Findings — Where Stronger Standards Are Warranted

The P&Z Commission's February 23, 2026 recommendations included five findings. The County Commission should adopt Findings 3 and 5 as written but should adopt stronger standards than recommended for Findings 1, 2, 4, and 5. The table below summarizes the Commission findings and the ordinance package's response.

Finding	P&Z Recommendation (Summary)	Ordinance Package Response
Finding 1: Property Values	Consider property value impact; adopt modest mitigation (title notice on adjacent properties)	Adopt strong property value protection: Hoen et al. (PNAS 2025) documents 4.8% decline within 1 mile. Require larger setbacks (1.5–2x height), property value impact assessments, title notice, and enhanced monitoring for projects near residential areas.
Finding 2: Ag Impacts	Agricultural soils warrant protection; limit large projects to non-prime soils; encourage restoration	Adopt categorical prohibition on Class I/II soils plus post-decommissioning agricultural restoration requirement: NC State research shows 20–40% yield loss for 3–5 years post-decommissioning; Welsh Government research shows 18–30 year recovery. Require decommissioning plans addressing soil restoration.
Finding 4: Water Resources	Consider water impacts; require impact assessment; ensure availability	Adopt strict water protection: IDWR identified 75,300 acre-foot shortfall in ESPA by July 2025 with zero margin for new demand. Require water availability certification, impact assessments, water use limits, and data disclosure. Restrict projects in water-stressed areas.
Finding 5: Notification	Standard 300–500 foot radius appropriate	Adopt county-wide + 25-mile notification for projects over 25 MW: Hoen et al. shows property value impacts to ~3 miles; water resources are aquifer-wide; rural character extends county-wide. JTown Survey: 90.8% support county-wide notification. Consistent with Nollan/Dolan rough proportionality standard.

How to Use This Package

For the Board of County Commissioners

This package provides the complete legal, evidentiary, and policy foundation for adopting the most comprehensive, evidence-based energy facility and data center ordinance in the region. Start with the Overview and Table of Contents (this document) to understand the package structure. Then read the Response to P&Z Recommendations to understand the specific ordinance changes being proposed and the evidence supporting them. Next, review the three ordinance documents (Chapters 7, 10, 11) to understand the specific standards. Finally, refer to the Position Papers as needed to address policy questions or community debate. The Sources document and individual position papers provide the foundation if legal challenges occur.

For Public Comment

This package is designed to be accessible at multiple levels. If you have 30 minutes, read the Overview, the Table of Contents, and one position paper of interest (e.g., Position Paper: Property Rights & Community Notification if you care about due process; Position Paper: Data Center Crisis if you care about job/tax projections; Legal/Ethical/Moral Justification if you care about fundamental principles). If you have 2 hours, read this Guide plus all three ordinance chapters (7, 10, 11) to understand the specific standards. If you want deep engagement, read everything: the ordinances, the Response to P&Z, the position papers, the supplements, and the sources. The JTown Beacon Survey results are especially powerful for public comment because they show near-unanimous community support for protection.

For Media and External Communications

The key talking points: (1) 93.8% of Jerome County residents prioritize agricultural preservation; 90.8% support county-wide notification; 80% say current regulations are inadequate. (2) The ordinance is based on peer-reviewed research showing property value impacts (-4.8%, Hoen et al.), agricultural soil damage (18–30 year recovery, Welsh Government), water crisis (ESPA 75,300 acre-foot shortfall), and national pattern (30–50% of data center pipeline unlikely to come online due to speculation). (3) Stronger regulations are consistent with state policy (Idaho HCR032 declares energy development inconsistent with state policy if it harms agriculture or water). (4) Similar protections have been adopted elsewhere (Bannock County ban, Maryland county soil protections) and are being debated in 22+ states via 60+ bills in 2025.

Prepared by Jeff Pierson, Confidential Solutions LLC | 713 East Ave C, Jerome, Idaho | March 2026

DOCUMENT REVISION HISTORY

Document Package Guide and Table of Contents

Version	Date	Changes / Updates	Reviewed By
v1	Mar 2026	Initial guide structure: overview, TOC, document descriptions, P&Z summary, usage guide	J. Pierson
v2	Mar 2026	Added complete document descriptions for all 11 documents with What It Does/Key Provisions/How It Integrates structure	J. Pierson
v3	Mar 2026	Added P&Z Errors Summary table, expanded usage sections for Board/Public/Media	J. Pierson
v4	Mar 2026	Added national context citations, integrated HCR032 references throughout, reinforced survey statistics	J. Pierson
v5	Mar 22, 2026	Final revision with complete integration of all ordinance chapters, position papers, and supplements; revision history page added	J. Pierson
v6	Mar 23, 2026	Package expanded from 14 to 17 documents. Added Document 15 (Legal Framework and Defensibility Analysis), Document 16 (Fiscal Impact and Tax Revenue Analysis), and Document 17 (CSPM Framework Application and Methodology). Updated overview, table of contents, and document descriptions throughout. Added IdahoEnergy logo to footer.	J. Pierson

REVIEW NOTES

Chapter 10
UTILITIES

Utilities consist of those services provided by public and private organizations for consumption by the public at large. The provision, location, and efficiency of utilities are strong determining factors for the quality of life and development for the entire County. Utilities include services such as municipal sewer and water systems whereas privately operated utilities might include canal systems, electric power, natural gas, or telecommunications. Individual wells and septic systems are typically owned and maintained by the landowner and are under the jurisdiction of the state.

WATER AND SEWER

- The City of Jerome provides water and sewer services to its citizens as well as to some of the areas within the area of city impact by the Interstate 84 and U.S. Route 93 interchange. The city has also extended water services along Highway 25 east of the city as well as providing water service to portions of the impact area west of the city limits up to the frontage road.
- The city of Hazelton provides sewer and water services to its citizens and also provides services outside the city limits to Valley School.
- The city of Eden provides sewer and water to its citizens, there are no services provided outside the city limits.
- The County does not provide any sewer or water services. Residents of the unincorporated County rely on private wells and septic systems.

Private Well Systems

Prior to drilling a well, the well owner or well driller must first obtain a drilling permit from Idaho Department of Water Resources (IDWR). Domestic wells do not require other approvals by IDWR before a drilling permit can be approved. Commercial/industrial wells, multi-family, or municipal wells require approved water rights before approvals are issued.

Private Septic Systems

The South Central Public Health District (SCPHD) is the permitting agency for septic systems. A minimum of one acre is typically required for an individual structure that will utilize a well and septic system. Permit applications are evaluated based on soil properties, depths to groundwater and bedrock, proximity to canals, and surface water.

Jerome Water and Sewer District

Jerome County has established a Sewer and Water District that has never been activated to provide sewer and water hookups within the County. Currently, the City of Jerome has sewer lines and water lines that reach outside of the city limits. These sewer and water lines from the City of Jerome are not part of the established Sewer and Water District. Jerome County should re-evaluate the Sewer and Water District to determine if a new district should be activated to include all existing sewer lines and water lines from the City of Jerome. The district was

formed to ensure that future development in critical areas would be serviced through a municipal system rather than through individual wells and septic systems. The Sewer and Water District map is located in Appendix B: 10-1.

Jerome County Ground Water Districts

It is IDWR's duty to direct and control the distribution of water from all natural water sources within Idaho. Idaho Code § 42-602. Water districts, through watermasters and under the supervision of IDWR, are responsible for the distribution of water among appropriators. Idaho Code § 42-602. IDWR creates water districts pursuant to Idaho Code § 42-604, and once created, water districts are instrumentalities of the State for the purposes of distributing water among appropriators. As a result, water districts are considered an extension of IDWR.

A water district is the only water-delivery entity specifically authorized and required to administer the delivery of Idaho water from a public water source or water system. The water district delivers and administers water from the public source to individuals who hold valid water rights or to entities that hold valid water rights.

Numerous water-delivery entities are subject to the administration and delivery of water by a water district watermaster. Listed below are common entities that deliver, convey, or provide water to consumers after it has been delivered by a water district watermaster:

- Irrigation districts
- Irrigation companies
- Homeowner associations
- Lateral water user organizations
- Municipalities
- Canal companies

These entities distribute water to patrons or customers through a common conveyance system or systems after the water is diverted from the public water source.

The Idaho Department of Water Resources Administrative Areas Basin Map is attached in Appendix B: 10-2.

Canal Systems

Jerome County has three irrigation water delivery entities that provide surface irrigation water primarily to shareholders for crop irrigation. They are A & B Irrigation District, American Falls Reservoir District #2, and the North Side Canal Company (NSCC). Surface water is utilized on many large and small farms and is crucial to the sustainability of agriculture. Refer to Appendix B: 10-3: Irrigation Delivery Entities Map.

The protection of irrigation infrastructure — including canals, laterals, drains, headgates, and associated easements — is a critical public interest. Irrigation infrastructure serves as the foundation of Jerome County's agricultural economy and is irreplaceable once disrupted. Any development, including energy projects, proposed within proximity to irrigation infrastructure shall be evaluated for potential impacts on water delivery, canal integrity, and the rights of water users. The County adopts the position that adequate setbacks from irrigation canals, laterals, and wells are essential components of any conditional use permit for development in agricultural areas.

ENERGY AND POWER

Electric Power

Electrical service for Jerome County is provided by Idaho Power distributed through the Midpoint Substation. Some of the power that is produced within Jerome County is generated by water from Milner, Shoshone Falls, and Twin Falls Dams. There are private electrical generating systems that are not owned by Idaho Power that produce electrical power by the way of canal systems within Jerome County.

National Interest Electric Transmission Corridor (NIETC)

The County is located in the Western geographic region designated by the United States Department of Energy. Under the Energy Policy Act of 2005 the Department of Energy has the authority to create these regions in an effort to speed the creation of more transmission capacity. Jerome County has authorization to regulate, to some degree, the siting of these transmission lines.

Natural Gas

Intermountain Gas Company operates gas fuel distribution lines in more densely populated portions of the County primarily around the City of Jerome. Although limited, there is natural gas service east of U.S. Route 93.

Renewable Energy

Renewable energy is energy that is collected from renewable resources, which are naturally replenished on a human timescale — such as sunlight, wind, rain, tides, waves, and geothermal heat. Renewable energy often provides energy in four important areas: electricity generation, air and water heating/cooling, transportation, and rural (off-grid) energy services. Currently renewable energy sources such as geothermal and solar are privately owned for individual use throughout the County. Additionally, hydropower is generated at facilities throughout the County, including Idaho Power Company's hydropower plants on the Snake River and the North Side Canal Company's in-canal small hydropower plants.

LARGE-SCALE ENERGY FACILITIES, DATA CENTERS, AND AGRICULTURAL LAND PROTECTION

Jerome County's position on large-scale energy facilities — including utility-scale solar, wind farms, battery energy storage systems (BESS), and associated transmission infrastructure — AND HYPERSCALE DATA CENTER FACILITIES — is informed by a thorough assessment of the County's infrastructure capacity, agricultural resource base, regulatory capacity, community values, economic conditions, and cumulative development pressure.

This policy posture is consistent with state legislative direction. On March 16, 2026, the Idaho House of Representatives adopted House Concurrent Resolution 32 (HCR032), which declares that transmission infrastructure that does not benefit Idaho utility customers and materially harms agriculture, critical water resources, or rural communities is inconsistent with state policy. HCR032 affirms that “private property rights, local land use authority, and the protection of agricultural and rural communities are paramount considerations” in the siting of any major energy infrastructure. It recognizes the Eastern Snake Plain Aquifer as a critical groundwater resource whose protection is of statewide importance. The ordinance framework established in this chapter and implemented in Chapters 7 and 11 directly implements the legislative principles expressed in HCR032.

This policy posture is further supported by direct community evidence. The JTown Beacon Community Survey (March 2026, 65 respondents) found that 93.8% of Jerome County respondents rate agricultural land preservation as important or extremely important; 93.7% oppose allowing large-scale energy development in agricultural zones; 92.3% are concerned about BESS safety risks; 80% say current guidelines are not strict enough; 90.8% support county-wide notification for all proposed energy and data center projects; 90.8% rate decommissioning financial assurance as extremely important; 87.7% say energy development should be limited to protect farmland and rural character; and 80% say the current approach needs significant revision. These results demonstrate that the regulatory framework established in this chapter and implemented in Chapters 7 and 11 reflects documented community consensus.

The County has evaluated its posture toward large-scale energy development using the County Siting Posture Metric (CSPM) framework, a structured scoring methodology that assesses six dimensions critical to sound siting policy:

- Infrastructure Capacity — Large-scale energy facilities and hyperscale data centers make extraordinary demands on water, power, roads, and emergency services. Data centers in particular consume massive quantities of water for cooling and impose sudden, sustained electrical loads that can destabilize local grids and drive up utility rates for all ratepayers — effects documented nationally at increases of up to 267% in Virginia over five years.
- Agricultural Protection — Jerome County contains some of the most productive agricultural land in Idaho. The USDA NRCS identifies Class I and Class II land capability classifications as prime farmland — irreplaceable for food and fiber production. Once converted to industrial energy use, these soils cannot feasibly be restored. The County's agricultural lands are actively farmed, with no surplus for conversion to non-agricultural uses without significant economic and environmental repercussions. Satellite imagery illustrates the intensive use of privately held lands for agriculture, showing a stark contrast between the verdant, irrigated farmlands and the arid, unmanaged public lands under Bureau of Land Management (BLM) oversight.
- Regulatory Capacity — The County has limited planning staff and must ensure that any review framework for complex energy applications includes independent technical review funded entirely by applicants, clear objective standards, and enforceable conditions of approval.
- Community and Plan Alignment — Jerome County's Comprehensive Plan has historically prioritized agricultural preservation and rural character. The community has consistently expressed, through public process, strong support for protecting farmland from industrial-scale conversion. This plan amendment reflects that documented community consensus.
- Economic Conditions — Jerome County's economy is anchored in agriculture. While the County would benefit from additional assessed valuation, it is not fiscally dependent on energy development revenue. The agricultural economy provides stable, long-term economic value that energy project tax payments do not replace.
- Cumulative and Regional Pressure — Southern Idaho is experiencing growing interest from large-scale energy developers attracted by favorable solar and wind resources, inexpensive land, and proximity to

transmission. The realistic scenario is not one project but a wave of applications that, cumulatively, could fundamentally alter the County's agricultural character.

Based on this assessment, the County adopts the following policy positions:

Agricultural Soil Protection

Class I and Class II agricultural soils, as classified by the USDA NRCS, shall be categorically protected from energy project siting. No conditional use permit, variance, or administrative waiver may authorize the siting of any energy generation, storage, or transmission facility on Class I or Class II soils. This standard is consistent with protections adopted by Cecil County, Maryland and Montgomery County, Maryland — among the strictest agricultural soil protections in the United States.

Siting Priorities

Large-scale energy projects should be directed to those portions of the County that are unfit for farming or other agricultural uses — desert areas existing on BLM grounds, buttes, land with rock outcroppings, arid sagebrush rangelands, basalt lava fields, steep canyon rims or slopes unsuitable for irrigation, areas with shallow stony soils over bedrock, saline flats, and non-productive dry grazing lands. Energy facilities shall not be permitted on actively farmed agricultural land.

Data Center Facilities

Hyperscale data center facilities impose demands on water, power, and infrastructure comparable to or exceeding those of large-scale energy generation facilities. The County's energy facilities ordinance (Chapter 11) applies to data center facilities meeting defined thresholds. Data centers proposed in Jerome County shall be subject to the same tiered review, impact analysis, decommissioning, and community notification requirements as energy generation facilities. The County recognizes that the utility rate effects of data center development — documented nationally — are borne by all ratepayers and therefore require county-wide public notification for any project requiring new transmission or substation infrastructure.

Tiered Review Framework

The County supports a tiered classification system for energy projects proportional to their scale and impact. Small-scale, on-site energy systems serving agricultural, residential, or small commercial operations are appropriate and should be permitted through administrative review. Medium and large-scale commercial energy projects require progressively more rigorous review, including conditional use permits with objective setback, noise, and environmental standards, mandatory decommissioning financial assurance, and public participation guarantees. The specific standards for this framework are established in the Jerome County Zoning Ordinance, Chapter 11.

Relationship to State Law

The current state trend supports agricultural land protection. The Idaho Agricultural Protection Area Act became state law in 2024 for the purpose of safeguarding Idaho's working farms, ranches, and forests from conversion to non-agricultural uses amid rapid population growth and development pressures. Senate Bill 1133 (2025) proposes

to amend this Act to prohibit non-agricultural uses like wind and solar infrastructure on protected lands. The County's policies are consistent with and complementary to this state legislative direction.

Costs Borne by Applicants

All costs associated with energy facility review — including environmental impact assessments, independent technical studies, infrastructure impact analyses, and decommissioning financial assurance — shall be borne entirely by project applicants. The County shall not subsidize or absorb costs created by energy development proposals.

Community Notification Policy

The County adopts the position that all citizens of the county have the right to advance written notification before any public hearing on a proposed medium- or large-scale energy or data center project. Standard notification distances of 300 to 1,320 feet are inadequate for projects whose property value effects, noise impacts, utility rate consequences, and infrastructure costs extend miles beyond their boundaries and affect every ratepayer and taxpayer in the jurisdiction. The County's adopted notification standard for all Tier 2 and Tier 3 energy and data center projects is county-wide or twenty-five (25) miles from the project boundary, whichever is greater. The scale, permanence, and cascading systemic impacts of these projects — grid destabilization, utility rate increases borne by all ratepayers, groundwater depletion, irreversible agricultural land conversion, and cumulative pressure from multiple applications — are without historical precedent in rural counties. Most residents do not yet fully understand the scope of these impacts, and maximum notification is essential to informed democratic participation. Notification is not opposition — it is the minimum prerequisite for democratic participation in decisions that affect community character, property values, and utility rates.

Telecommunications

Telecommunications services such as phone, cable, broadband, and fiber optics are provided by various private entities. These lines generally coincide with major electrical transmission lines. The majority of telecommunications facilities are located on various buttes that are located within Jerome County that are managed by private entities and Idaho Department of Lands.

DOCUMENT REVISION HISTORY

Chapter 10 — Utilities

Version	Date	Changes / Updates	Reviewed By
v1	Mar 2026	Initial utilities chapter covering energy facility capacity, water resources, electrical utilities, and telecommunications infrastructure	J. Pierson
v5	Mar 22, 2026	Added revision tracking page; final consistency review	J. Pierson
v6	Mar 23, 2026	Added IdahoEnergy logo to footer; package expanded from 14 to 17 documents	J. Pierson

REVIEW NOTES

CHAPTER 11
ENERGY FACILITIES AND DATA CENTERS

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11-1 PURPOSE

The purpose of this Chapter beyond those mentioned in Chapter 7 is to implement the goals and policies of the Jerome County Comprehensive Plan, specifically recognizing that the County's agricultural lands are its most valuable resource and that large-scale energy plants inherently conflict with the County's objective of farmland preservation. This Chapter establishes comprehensive standards and criteria for the siting, review, permitting, construction, operation, and decommissioning of Energy Facilities and Data Center Facilities so that such uses are appropriately regulated proportional to their scale and impact, with particular emphasis on permanently protecting Class I and Class II agricultural soils, active farmland, groundwater resources, and irrigation infrastructure from permanent or long-term impairment. This Chapter also applies to hyperscale and large-scale data center facilities, which impose comparable demands on infrastructure, water resources, and community character.

Standards herein have been calibrated to equal or exceed the strictest documented county-level protections found in comparable agricultural jurisdictions nationwide, including standards adopted in Mason County, KY; Town of Freedom, ME; Town of Sumner, ME; Cecil County, MD; Montgomery County, MD; Boone County, IN; Stutsman County, ND; Amelia County, VA; Cerro Gordo County, IA; Skagit County, WA; and Union County, IA.

The standards in this Chapter are consistent with state legislative direction. On March 16, 2026, the Idaho House of Representatives adopted House Concurrent Resolution 32 (HCR032), declaring that energy infrastructure that does not benefit Idaho utility customers and materially harms agriculture, critical water resources, or rural communities is inconsistent with state policy. HCR032 affirms that private property rights, local land use authority, and the protection of agricultural and rural communities are “paramount considerations” in energy infrastructure siting. The Eastern Snake Plain Aquifer is recognized as a critical resource whose protection is of statewide importance.

The standards in this Chapter are further supported by the JTown Beacon Community Survey (March 2026, 65 respondents), which found: 93.8% of respondents rate agricultural land preservation as important or extremely important; 93.7% oppose allowing large-scale energy development in agricultural zones; 92.3% are concerned about BESS safety risks (83.1% very concerned); 80% say current guidelines are not strict enough; 90.8% support county-wide notification for all proposed energy and data center projects; 90.8% rate decommissioning financial assurance as extremely important; 87.7% say energy development should be limited to protect farmland and rural character; and 80% say the current approach needs significant revision. The community support documented in this survey provides additional policy justification for the categorical protections, expanded notification requirements, and strengthened decommissioning standards established in this Chapter.

11-2 INTENT

It is the intent of this Chapter to:

1. Establish a tiered classification system for energy projects ensuring that review processes, permit requirements, and mitigation standards are proportional to the scale, purpose, and potential impact of each project;

2. Permanently protect Class I and Class II agricultural soils, which are categorically prohibited from energy project siting under this ordinance;

3. Protect active farmland, groundwater resources, and irrigation infrastructure from permanent or long-term impairment;

4. Preserve the rural character and property values of Jerome County and the rights of adjacent landowners;

5. Establish objective, measurable, legally defensible standards so that applicants, residents, and decision-makers understand the criteria for approval, denial, and ongoing compliance;

6. Ensure compatibility between energy uses and surrounding land uses;

7. Minimize visual, noise, traffic, and environmental impacts on agricultural operations and rural residential areas;

8. Provide guaranteed public notice and participation rights for all residents within the impact area of proposed projects;

9. Ensure that all costs of energy development — including environmental review, infrastructure impacts, and eventual decommissioning — are borne entirely by applicants;

10. Prevent incremental or piecemeal project expansion designed to avoid higher-tier review requirements; and

11. Provide a clear, predictable, and efficient review process that upholds the County's farmland-preservation priority.

11-3 APPLICABILITY

A. The provisions of this Chapter apply to all Energy Facilities and Data Center Facilities proposed within unincorporated Jerome County, as classified into tiers under Section 11-5.02.

B. Personal-Scale and On-Site Energy Systems qualifying as Tier 1 under Section 11-5.02 are subject to administrative review only, but must comply with the applicable building, electrical, and safety codes, as well as with other applicable chapters of the JCZO.

C. Data center facilities meeting the thresholds in Section 11-5 are subject to all provisions of this Chapter, including tier classification, impact standards, permitting requirements, and community notification.

D. Where any conflict arises between this Chapter and Chapter 7 or any other areas of the Jerome County Zoning Ordinance, the more protective provision shall govern.

11-4 ADMINISTRATION

A. Administration shall be as provided in Chapter 7.

B. The Board of County Commissioners shall have original jurisdiction over all Tier 3 Energy Facility applications. The Planning and Zoning Commission shall have jurisdiction over Tier 2 applications. Tier 1 applications shall be processed administratively.

11-5 DEFINITIONS

11-5.01 ENERGY FACILITY, GENERAL:

Any facility used for the generation, conversion, storage, or transmission of electrical energy for commercial or industrial purposes, including associated substations, switchyards, and transmission interconnections. For the purposes of this Chapter, Energy Facilities are classified into three tiers as set forth in Section 11-5.02.

11-5.02 CLASSIFICATION TIERS:

All energy projects within unincorporated Jerome County shall be classified into one of three tiers. Where a project meets the threshold of more than one tier, the higher tier governs. Classification is based on the project as a whole, including all phases, expansions, and associated infrastructure planned or reasonably foreseeable at the time of application.

A. Tier 1 — Small-Scale / Personal or On-Site Energy Facility.

1. Size Thresholds: Generation capacity of 50 kW or less AND project footprint of 2 acres or less AND no off-site transmission infrastructure required.

2. Primary Purpose: On-site consumption for agricultural, residential, or small commercial use. Incidental net metering permitted up to 100% of annual on-site use.

3. Typical Systems: Rooftop or ground-mounted solar serving a single building, single farm wind turbine, on-site battery backup (under 1 MWh).

4. Restriction — Class I/II Soils: No Tier 1 project may be sited on Class I or Class II soils. Projects proposed on Class I or II soils require at minimum Tier 2 review.

5. Review Process: Administrative permit only — issued by county staff within 30 days of complete application. No public hearing. No environmental assessment. Standard setbacks apply.

6. Exception: Anaerobic Digesters are exempt from size and capacity requirements when located on an approved Livestock Confinement Operation.

B. Tier 2 — Medium-Scale Energy Facility (Conditional Use Permit, Standard Review).

A project is Tier 2 if it meets ALL of the following and NONE of the Tier 3 thresholds:

1. Size Thresholds: Generation capacity between 51 kW and 25 MW AND project footprint between 2 and 160 acres AND no new off-site transmission lines exceeding 5 miles.

2. Restriction — Class I/II Soils: PROHIBITED. No Tier 2 project may be sited on, or have its project footprint encumber, any Class I or Class II soils. No exceptions, no waivers.

3. BESS Prohibition: BESS facilities are prohibited in agricultural zones.

4. Review Process: CUP required. Mandatory public hearing before P&Z Commission with minimum 21-day advance county-wide written notice or notice to all property owners within twenty-five (25) miles of the project boundary, whichever is greater. Site plan review per Section 11-6. Decision within 90 days. Commissioner approval required for projects exceeding 80 acres.

5. Financial Assurance: Decommissioning bond at minimum 150% of the County-verified estimated removal and restoration cost, posted before any building permit is issued, updated every 3 years.

C. Tier 3 — Large-Scale Energy Facility (Conditional Use Permit, Full Review).

Any ONE of the following triggers mandatory Tier 3 review:

1. Generation capacity exceeding 25 MW; OR

2. Project footprint exceeding 160 acres; OR

3. Any project requiring new transmission lines exceeding 5 miles within the county; OR

4. Any project with easements, leases, or encumbrances on 10 or more separate parcels; OR

5. Any project that, when aggregated with other projects by the same applicant or related entities within the prior 5 years, would cumulatively exceed any of the above thresholds.

Tier 3 Requirements:

a. Restriction — Class I/II Soils: ABSOLUTELY PROHIBITED. No Tier 3 project may be sited on, or have any portion of its project footprint encumber, any Class I or Class II soils. No exceptions, no variances, no waivers. This is a categorical prohibition with no administrative override.

b. Restriction — Agricultural Zones: Tier 3 BESS and standalone substation facilities are prohibited in agricultural zones. Wind and solar Tier 3 projects in agricultural zones require an affirmative finding that the project is an agricultural support use serving primarily the host parcel — a finding that commercial export projects cannot satisfy.

c. Review Process: Full Environmental Impact Assessment (EIA) — county-commissioned, applicant-funded. Two mandatory public hearings: one in the project area, one at county seat. Minimum 21-day advance county-wide written notice or notice to all property owners within twenty-five (25) miles of the project boundary, whichever is greater. 180-day review period. Full Board majority vote required.

d. Financial Assurance: Decommissioning trust fund at minimum 150% of the County-verified estimated removal and restoration cost, established before any land disturbance permit, updated every 2 years by County-commissioned appraisal at applicant's expense. Agricultural soil restoration cost must be separately calculated and included.

e. Interagency Coordination: Mandatory coordination with IDWR, IDEQ, NRCS, BLM (where applicable), and all irrigation districts within 2 miles.

D. Battery Energy Storage System (BESS) and Similar Systems.

1. Large-Scale BESS: Any energy storage system with a total capacity exceeding 20 MWh, or occupying more than 5 acres of land. Such facilities shall be permitted only in Heavy Industrial zones, subject to Conditional Use Permit and written approval from the applicable Fire Protection District verifying compliance with NFPA 855 and the current Idaho Fire Code.

2. Medium-Scale BESS: An energy storage system with a total capacity between 5 MWh and 20 MWh. May be considered in Light Industrial zones subject to Conditional Use Permit and written approval from the applicable Fire Protection District.

3. Small-Scale BESS: An energy storage system with a total capacity less than 5 MWh, typically serving on-site or local distribution needs. Permitted as an accessory use in any zone where the principal use is allowed.

11-5.03 DEFINITIONS, GENERAL:

A. Abandonment: A continuous period of twelve (12) months during which no electricity is generated, stored, or dispatched from the facility other than for maintenance or repair.

B. Financial Assurance: A performance bond, irrevocable letter of credit, or other surety instrument approved by the County guaranteeing decommissioning and site reclamation in accordance with this Chapter.

C. Transmission Interconnection: The infrastructure and equipment necessary to connect an energy-generation or storage facility located within Jerome County to the regional electric grid, including on-site substations, transformers, switchyards, poles, towers, and lines extending from the facility to the existing utility transmission or distribution system located within the County. This definition does not include regional or interstate transmission lines that merely traverse the County without serving an energy-generation or storage facility located within the County.

D. Class I and Class II Soils: Land classified as USDA NRCS Land Capability Class I or Class II in the most current NRCS soil survey for Jerome County. These soils constitute the highest-quality prime farmland and are categorically prohibited from energy project siting under this ordinance.

E. Project Footprint: The total land area disturbed, fenced, cleared, graded, paved, occupied, leased, or encumbered by easement for the purposes of an energy project, including all panels, turbines, substations, BESS, access roads, laydown areas, setback buffers, and associated facilities.

F. Non-Participating Parcel: Any parcel of real property that is not part of the project footprint and whose owner has not entered into a signed agreement with the applicant consenting to the project's impacts.

G. Related Entities: Any two or more persons or entities sharing common ownership, common control, common financing, common project management, common corporate officers or directors, or any other indicia of common enterprise.

H. General Welfare: As defined in Chapter 7, Section 7-5.

I. Community Character: As defined in Chapter 7, Section 7-5.

J. Property Value Diminishment: Any documented or objectively demonstrated projected decrease in the market value of any non-participating parcel, caused by the proximity, presence, or operations of an energy project. Property value diminishment of any non-participating parcel is an independently sufficient basis for denial of a CUP.

K. Data Center Facility: Any facility designed primarily for the housing, operation, and maintenance of computer servers, data storage systems, and associated networking and cooling infrastructure, including all supporting electrical systems, backup generators, cooling towers, and water treatment systems. Any data center facility with a total electrical load capacity exceeding 1 megawatt (MW) or total water consumption exceeding 100,000 gallons per day is subject to this Chapter. Data center facilities are classified by tier according to the same thresholds as energy projects, with electrical load capacity treated as equivalent to generation capacity for classification purposes.

11-6 OBJECTIVE IMPACT STANDARDS

All energy projects shall be evaluated against the following standards. For Tier 1 projects, the standards are minimum administrative requirements. For Tier 2 and Tier 3 projects, these are mandatory findings that must be affirmatively satisfied.

11-6.01 AGRICULTURAL LAND AND SOIL PROTECTION

A. Class I Soil — Energy Project Siting:

Tier 1: PROHIBITED — No exceptions.

Tier 2: PROHIBITED — No exceptions, no waivers, no variances.

Tier 3: ABSOLUTELY PROHIBITED. No part of any Tier 3 project footprint, including access roads, substations, or laydown areas, may be sited on Class I soils.

B. Class II Soil — Energy Project Siting:

Tier 1: PROHIBITED — No exceptions.

Tier 2: PROHIBITED — No exceptions, no waivers. Agrivoltaic systems where agriculture is demonstrably the primary use are exempt.

Tier 3: ABSOLUTELY PROHIBITED, including access roads and substations. Agrivoltaic exemption applies only where crops are the primary use verified by annual production data.

C. Agricultural Soil Assessment:

Tier 1: Not required.

Tier 2: NRCS soil classification map for entire footprint and 500-ft buffer; professional soils report required for any disturbance exceeding 10 acres.

Tier 3: Full NRCS-reviewed agricultural soils report plus NRCS field verification for entire footprint and 1,000-ft buffer; applicant pays for NRCS consultation.

D. Topsoil Preservation:

Tier 1: Standard grading rules.

Tier 2: All disturbed soils stripped, stockpiled, and replaced per approved soil management plan; no mixing of topsoil with subsoil.

Tier 3: Same as Tier 2 plus soil compaction remediation plan; post-decommission topsoil restoration bond required.

E. Minimum Setback — Active Irrigated Cropland:

Tier 1: 50 ft.

Tier 2: 200 ft from boundary of active irrigated cropland on adjacent non-participating parcels.

Tier 3: 500 ft from boundary of active irrigated cropland on adjacent non-participating parcels.

11-6.02 SETBACKS — SOLAR AND BESS FACILITIES

Setbacks are measured from the outermost edge of any project component to the nearest point of the specified reference feature. All setbacks are minimums; conditions of approval may require greater distances.

A. Residential Structure — Solar Arrays:

Tier 1: 100 ft. Tier 2: 500 ft from any residence on non-participating parcel. Tier 3: 1,000 ft.

B. Residential Structure — BESS Facilities:

Tier 1: 100 ft. Tier 2: 500 ft. Tier 3: 1,500 ft.

C. Property Line — Non-Participating (Solar):

Tier 1: Standard zoning setbacks. Tier 2: 100 ft. Tier 3: 200 ft.

D. Property Line — Non-Participating (BESS):

Tier 1: 100 ft. Tier 2: 150 ft. Tier 3: 300 ft.

E. Public Road Right-of-Way:

Tier 1: Standard zoning setbacks. Tier 2: 100 ft. Tier 3: 200 ft.

F. Active Irrigation Well:

Tier 1: 100 ft. Tier 2: 500 ft. Tier 3: 1,500 ft.

G. Irrigation Canal, Lateral, or Drain:

Tier 1: 50 ft. Tier 2: 200 ft. Tier 3: 500 ft.

H. School, Church, or Community Facility:

Tier 1: 100 ft. Tier 2: 1,000 ft. Tier 3: 2,640 ft (one-half mile).

11-6.03 SETBACKS — WIND TURBINES

Wind turbine setbacks incorporate the strictest documented standards from comparable agricultural counties.

A. Residential Structure — Non-Participating:

Tier 1: N/A. Tier 2: 2,640 ft (one-half mile) OR 5x total height, whichever is greater. Tier 3: 5,280 ft (1 mile) OR 7x total height, whichever is greater.

B. Property Line — Non-Participating Parcel:

Tier 1: N/A. Tier 2: 2x tip height. Tier 3: 4x tip height.

C. Property Line — Participating Parcel:

Tier 1: N/A. Tier 2: 1x tip height (may be waived in writing). Tier 3: 1.5x tip height (may be reduced to 1x by recorded written waiver).

D. Public Road Right-of-Way:

Tier 1: N/A. Tier 2: 1.5x total height. Tier 3: 1.5x total height (absolute minimum).

E. Irrigation Canal or Lateral:

Tier 1: N/A. Tier 2: 500 ft. Tier 3: 750 ft.

F. Active Irrigation Well:

Tier 1: N/A. Tier 2: 750 ft. Tier 3: 1,500 ft.

G. School, Church, or Community Facility:

Tier 1: N/A. Tier 2: 1 mile. Tier 3: 1 mile (absolute minimum).

11-6.04 SETBACKS — TRANSMISSION LINES

A. New Transmission Line (69–114 kV):

Tier 2: 300 ft from any residence. Tier 3: 500 ft from any residence on non-participating parcel.

B. New Transmission Line (115–229 kV):

Tier 2: 500 ft from any residence. Tier 3: 1,000 ft from any residence on non-participating parcel.

C. New Transmission Line (230 kV and above):

Tier 2: 750 ft from any residence. Tier 3: 1,320 ft (one-quarter mile) from any residence on non-participating parcel.

D. Transmission Line from Property Line:

Tier 2: 150 ft. Tier 3: 300 ft from any non-participating property line.

E. Transmission Line from Irrigation Infrastructure:

Tier 2: 200 ft. Tier 3: 500 ft from any canal, lateral, or irrigation well.

11-6.05 NOISE STANDARDS

A. Maximum Noise — Daytime (7am–10pm) at Property Line:

Tier 1: 50 dBA Leq. Tier 2: 40 dBA Leq. Tier 3: 35 dBA Leq.

B. Maximum Noise — Nighttime (10pm–7am) at Property Line:

Tier 1: 45 dBA Leq. Tier 2: 35 dBA Leq. Tier 3: 30 dBA Leq.

C. Low-Frequency Noise — C-Weighted (Wind Turbines):

Tier 2: 60 dBC at nearest non-participating residence. Tier 3: 50 dBC.

D. Shadow Flicker — Maximum Annual (Wind Turbines):

Tier 2: 20 hours per year. Tier 3: 30 hours per year at any occupied building on non-participating parcel.

E. Shadow Flicker — Maximum Daily:

Tier 2: 20 minutes per day. Tier 3: 30 minutes per day.

F. Pre-Construction Noise Study:

Tier 2: Required; post-construction compliance measurement within 90 days. Tier 3: Required; annual monitoring for first 5 years.

G. Shadow Flicker Modeling:

Tier 2: Required for all wind projects. Tier 3: Required; automatic shutdown system required for any turbine exceeding daily limit.

11-6.06 VISUAL IMPACT

A. Solar Panel Height — Maximum Above Grade: 15 ft for all tiers.

B. Wind Turbine Total Height: Tier 2: 200 ft maximum. Tier 3: No absolute limit; visual impact study with photo simulations from all public roads within 3 miles required.

C. Vegetative Screening Buffer — Solar Facilities:

Tier 2: 30 ft minimum perimeter buffer; native species. Tier 3: 60 ft minimum perimeter buffer; 5-year establishment guarantee.

D. Glare Impact Analysis: Tier 2: Required; anti-reflective coating required. Tier 3: Photo-simulation analysis required; anti-reflective coating mandatory.

E. Facility Lighting: No uplighting; full-cutoff, downward-directed, motion-activated security lighting only.

11-6.07 GROUNDWATER AND IRRIGATION INFRASTRUCTURE

A. Hydrogeological Study:

Tier 2: Required for any project within 1,000 ft of an irrigation well or 2,000 ft of a canal. Tier 3: Required for entire groundwater impact area.

B. Stormwater Management:

Tier 2: Full SWPPP required. Tier 3: Must demonstrate no change in drainage to adjacent irrigated lands; 3-year monitoring.

C. Irrigation District Consultation:

Tier 2: Written consultation with any district within 1.5 miles. Tier 3: Formal written agreement with any district within 2 miles required before CUP issuance.

D. Contamination Prevention (BESS):

Tier 2: Secondary containment; spill response plan. Tier 3: Groundwater monitoring wells downgradient; annual water quality reports.

11-6.08 TRAFFIC AND ROAD INFRASTRUCTURE

A. Traffic Impact Study:

Tier 2: Required if construction traffic exceeds 50 trips/day. Tier 3: Required for all projects.

B. Road Use and Restoration Agreement:

Tier 2: Required for all haul routes. Tier 3: Same plus applicant funds bridge and culvert upgrades.

C. Oversize / Overweight Loads:

Route plan 30 days before transport; applicant responsible for all damages and infrastructure improvements.

11-6.09 FIRE SAFETY AND EMERGENCY RESPONSE

A. Fire Safety Plan:

Tier 2: Required for any BESS; local fire district approval. Tier 3: Full fire and emergency response plan; annual review required.

B. Emergency Access:

Tier 2: Two points of vehicular access for projects exceeding 40 acres. Tier 3: Two all-weather paved access routes; emergency access gates monitored 24/7.

C. Hazardous Materials (BESS):

Tier 2: Electrolyte and chemical inventory; annual inspection. Tier 3: Full HAZMAT inventory; annual third-party inspection.

D. BESS — Fire Suppression System:

Tier 2: Automatic fire suppression required per NFPA 855. Tier 3: Independent third-party fire risk analysis required; suppression system tested annually.

11-6.10 PROPERTY VALUE, COMMUNITY CHARACTER, AND ECONOMIC IMPACT

Property value, neighborhood compatibility, and community character are independently sufficient bases for CUP denial.

A. Property Value Impact Study:

Tier 2: Required for any project with residential or agricultural structures within 1 mile; independent MAI-certified appraisal. Tier 3: Required for all projects; all non-participating parcels within 1 mile; County selects appraiser.

B. Property Value Diminishment Threshold:

Tier 2: No projected diminishment of any adjacent non-participating residential parcel. Tier 3: No projected diminishment of any non-participating parcel within one-half mile.

C. Property Value Diminishment — Independently Sufficient Denial Basis:

Any projected diminishment is independently sufficient grounds for denial. No offsetting analysis may be weighed against documented property value harm.

D. Agricultural Lease and Income Impact:

Tier 2: Written assessment of impact on existing leases within one-half mile. Tier 3: Full agricultural economic impact study within 1 mile by licensed agricultural economist.

E. Community Character Compatibility Assessment:

Tier 2: Visual impact from minimum 5 public road viewpoints. Tier 3: Comprehensive assessment from 10 viewpoints; independent peer review.

11-6.11 PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE

Adverse impacts on any component of the general welfare constitute independently sufficient grounds for denial.

A. EMF — Transmission Lines and Substations:

Tier 2: Documentation that EMF remains below FCC limits; 300 ft clearance from structures. Tier 3: Independent EMF study; biennial monitoring for 10 years.

B. Air Quality:

Tier 2: Construction dust control plan. Tier 3: Full air quality impact assessment; quarterly reports.

C. BESS — Health Risk and Thermal Runaway Assessment:

Tier 2: Required for any BESS within 1,000 ft of residence. Tier 3: Full independent health risk assessment; emergency evacuation zone mapping.

D. General Welfare — Applicant Affirmative Demonstration:

Tier 2: Written General Welfare Statement addressing each component. Tier 3: Must affirmatively demonstrate net positive contribution to each component. A project that harms any component does not satisfy this standard regardless of aggregate county-level benefits.

E. General Welfare — Denial Without Balancing (Tier 3):

The Board shall make a written finding on each component. If any component is adversely impacted as to any non-participating landowner, the Board shall deny the CUP without balancing.

11-7 PERMITS

11-7.01 WHEN REQUIRED

Conditional Use Permits shall be required for:

A. All Tier 2 and Tier 3 Energy Facilities and Data Center Facilities.

B. Any existing Energy Facility or Data Center Facility — whether operating under an approved CUP or as a legal non-conforming use — that proposes a substantial or material change from its current state of operation.

C. "Substantial or material change" includes, but is not limited to, expansion of the facility footprint or modification of energy source type.

11-7.02 STANDARDS

A. The standards for approval of a CUP shall be those set forth in Section 7-6.02 of this Ordinance.

B. In addition to those standards, the Commission or Board shall find that:

1. The project complies with all applicable objective impact standards in Section 11-6;
2. The proposed use will not cause the conversion or impairment of agricultural lands; and
3. The project satisfies all required findings in Section 11-7.03.

11-7.03 REQUIRED FINDINGS FOR CUP APPROVAL

No CUP shall be approved unless the decision-making body affirmatively finds, based on substantial evidence, each of the following. The burden of proof is on the applicant. Failure to satisfy any single finding is sufficient grounds for denial.

A. Comprehensive Plan Consistency.

B. Agricultural Land Protection (Class I/II Absolute Prohibition): No Class I or Class II soils encumbered.

C. Compliance with all Objective Standards in Section 11-6.

D. Adequate Infrastructure.

E. Groundwater and Irrigation Protection.

F. Financial Assurance at required tier amount.

G. Neighborhood Compatibility, Community Character, and Property Value Protection — independently sufficient basis for denial.

H. Anti-Circumvention Compliance.

I. (Tier 3 only) Community Benefit and General Welfare — net positive contribution to each component required; no balancing of harms against benefits.

J. (Tier 3 only) Environmental Impact Acceptability and Cumulative Impact Assessment.

K. (Tier 3 only) Interagency Concurrence.

L. (Tier 3 only) Property Value — no diminishment of any non-participating parcel within one-half mile.

M. (Tier 3 only) General Welfare No-Balancing Determination.

11-7.04 PROCURING PERMIT

A. Pre-Application Conference and Coordination:

1. Prior to obtaining an application, the Applicant shall schedule a pre-application meeting with the Administrator to identify potential site constraints, agency concerns, and required submittals.

2. The Administrator shall invite affected public agencies, including but not limited to:

(a) The applicable highway district;

(b) Fire protection district;

(c) Irrigation districts and canal companies;

(d) The Idaho Department of Water Resources (IDWR); and

(e) Any other entity the Administrator deems affected.

11-7.05 APPLICATION REQUIREMENTS

A. All Tier 2 and Tier 3 Energy Facilities require a CUP pursuant to Chapter 7.

B. In addition to the requirements of Section 7-6.05, the application shall include:

1. A site plan identifying zoning districts within one mile;
2. Soils and irrigation-capability analysis verified by the NRCS or a licensed professional;
3. Noise, glare, traffic, and visual-impact studies;
4. A storm-water and drainage management plan;
5. An emergency response and fire-suppression plan approved by the local district;
6. A decommissioning and reclamation plan, including financial assurance;
7. Evidence of coordination with Idaho Power or the relevant utility regarding interconnection;
8. NRCS soil classification confirming no Class I or Class II soils encumbered;
9. Statement identifying all projects by the same applicant or related entities within 5 years;
10. Property value impact study as required by Section 11-6.10;
11. General Welfare Statement as required by Section 11-6.11.

C. Additional Requirements for Tier 3:

1. Full Environmental Impact Assessment;
2. Agricultural impact study;
3. Full hydrogeological study;
4. Shadow flicker analysis from all public roads within 3 miles;
5. Interagency coordination letters;
6. Decommissioning trust fund agreement;
7. Road improvement bond;
8. Cumulative impact analysis for all related projects within 5 miles.

11-7.06 CHAPTER 7 PROCEDURES

A. Unless otherwise provided in this Chapter, applications for Energy Facilities shall follow the lodging, filing, notice, hearing, decision, condition-setting, and written decision procedures of Chapter 7, together with all provisions governing duration, expiration, transfer, and terms.

B. Public notice of the hearing shall be county-wide or mailed to all property owners within twenty-five (25) miles of the boundary of the proposed use, whichever is greater, for all Tier 2 and Tier 3 Energy Facilities and Data Center Facilities.

C. The decision-making body shall determine that access, emergency response, drainage, and decommissioning plans are adequate.

D. Where this Chapter imposes additional requirements those requirements shall control.

11-8 PUBLIC PARTICIPATION RIGHTS

A. Notice Requirements:

1. County-wide written notice or notice to all property owners within twenty-five (25) miles of the project boundary, whichever is greater, first-class mail, at least 21 days before any hearing, for all Tier 2 and Tier 3 Energy Facilities and Data Center Facilities;
2. Published and posted notice at least 21 days before any hearing;
3. All application materials available for public inspection at least 21 days before the first hearing.

B. Hearing Rights:

1. Any person may testify at any public hearing;
2. All written comments included in the official record;

3. Written findings addressing all substantive comments required;

4. No approval materially different from what was publicly noticed without re-notice and re-hearing.

C. Post-Approval Participation:

1. Any person may file a written compliance complaint;

2. Administrator shall respond within 30 days;

3. Any person may request a Board hearing regarding compliance.

11-9 ANTI-AGGREGATION AND ANTI-CIRCUMVENTION

A. Project Aggregation: Two or more energy projects shall be considered a single project for tier classification if:

1. They are owned, controlled, or financed by the same person, entity, or related entities;

2. They are located within 5 miles of each other;

3. They are constructed, operated, or proposed within 5 years of each other; AND

4. They share transmission infrastructure, access roads, substations, or interconnection points.

The County may treat separately proposed projects as a single project upon substantial evidence of a common plan of development, regardless of whether all four conditions are met.

B. Reclassification: If a project exceeds the thresholds of its approved tier at any point, the permit holder must:

1. Cease all work on the expanded scope immediately upon written notice;

2. Submit a reclassification application within 60 days;

3. Submit to the full review process for the applicable higher tier before resuming work.

11-10 EXISTING FACILITIES

A. All energy projects in existence as of the effective date are lawfully non-conforming uses. However:

1. Any expansion, modification, or upgrade that increases generation capacity, project footprint, or transmission infrastructure is treated as a new project subject to full tiered review;

2. Routine operation and maintenance not increasing capacity or footprint is permitted to continue;

3. Replacement of like-for-like equipment (same capacity, same footprint) requires only an administrative permit.

B. No existing facility or operator shall receive preferred treatment in the CUP process.

11-11 STANDARD CONDITIONS OF APPROVAL

All approved CUPs for Energy Facilities shall include the following conditions:

A. Compliance with all applicable federal, state, and local laws;

B. Annual compliance report to the Zoning Administrator by March 1 each year;

C. County staff inspection rights upon 48 hours' written notice;

D. Change in ownership reported within 30 days; new owner assumes all conditions in writing;

E. Financial assurance in full force at all times; any lapse is an immediate violation;

F. Decommissioning begins within 12 months of closure or cessation exceeding 12 consecutive months; completed within 24 months;

G. Wind turbine shadow flicker automatic shutdown systems operational and logged;

H. BESS annual third-party fire and safety inspections;

I. CUP is not transferable to projects of a different type or size than approved.

11-7A COMMUNITY NOTIFICATION REQUIREMENTS

11-7A.01 NOTIFICATION STANDARD

A. All Tier 2 and Tier 3 Energy Facilities and Data Center Facilities: County-wide written notification or written notice to all property owners within twenty-five (25) miles of the project boundary, whichever is greater, by first-class mail, at least twenty-one (21) days before any public hearing.

B. County-wide notification shall include: published notice in all newspapers of general circulation in Jerome County; posted notice on the County website and at the courthouse; and direct written notice to all irrigation districts, canal companies, and school districts within the notification area.

C. Digital notification of all CUP applications for energy and data center projects shall be maintained on the County website with complete application materials available for public inspection at least twenty-one (21) days before the first hearing.

11-7A.02 RATIONALE FOR COUNTY-WIDE / 25-MILE NOTIFICATION

Standard notification distances of 300 to 1,320 feet were designed for residential subdivisions and minor zoning changes. They are wholly inadequate for the scale and systemic impact of modern energy and data center projects:

A. Property value effects from large-scale solar installations are measurable to at least 1 mile (Lawrence Berkeley National Laboratory, 2023) and potentially 3 miles (Proceedings of the National Academy of Sciences, 2025). Wind turbine announcement effects extend further.

B. Utility rate effects are not localized — they affect every ratepayer in the utility service territory. Nationally, data center demand drove $9.3 billion in PJM capacity market price increases (2025–26) and utility rate increases of up to 267% in Virginia over five years.

C. Grid infrastructure upgrades necessitated by large energy and data center projects are socialized across all ratepayers, including rural households that spend proportionally more on energy.

D. Groundwater depletion from data center cooling systems (100,000+ gallons/day) affects aquifer levels across the county, not merely adjacent parcels.

E. The cumulative effect of multiple projects is transformative and county-wide in character. The realistic scenario is not one project but a wave of applications that, individually or collectively, can fundamentally alter the County’s agricultural character, water resources, and economic base.

F. The scale, permanence, and cascading systemic impacts of these projects are without historical precedent in rural counties. Most residents do not yet fully understand the scope of these impacts. Maximum notification is essential to ensure that informed democratic participation is not limited to the small number of property owners who happen to live adjacent to a project boundary.

G. Community Support: The JTown Beacon Community Survey (March 2026, 65 respondents) found that 90.8% of Jerome County respondents believe all county residents should be notified when a large-scale energy facility or data center is proposed. This near-unanimous result confirms that the county-wide / 25-mile notification standard reflects the documented will of the community.

11-7A.03 NOTIFICATION IS NOT OPPOSITION

Expanded notification requirements do not predetermine outcomes, do not ban projects, and do not create a veto for neighbors. They ensure that the people whose lives, property values, and community character will be affected have the information necessary to participate meaningfully in the decision.

11-12 DECOMMISSIONING AND RECLAMATION

A. Upon closure or abandonment of the use, the Applicant shall be responsible for the removal of all equipment, structures, foundations, access roads, and utilities associated with the facility. All disturbed land shall be reclaimed to its pre-existing condition or better. "Abandonment" shall mean a continuous period of twelve (12) months during which no electricity is generated or energy stored, other than for maintenance or repair.

B. Decommissioning and reclamation shall commence within twelve (12) months of cessation of operations and be completed within twenty-four (24) months thereafter, unless otherwise approved by the County.

C. A financial assurance instrument, in a form approved by the County, shall be maintained in an amount sufficient to guarantee performance of decommissioning and reclamation obligations:

1. Tier 2: Bond at minimum 150% of County-verified estimated removal cost, updated every 3 years.

2. Tier 3: Trust fund at minimum 150% of County-verified estimated removal cost, updated every 2 years; agricultural soil restoration cost separately calculated and included.

D. The County may require verification or adjustment of the financial assurance every five (5) years or upon any material change in project scope.

E. The County may inspect the site following completion to verify compliance prior to release of any financial assurance.

F. If the operator fails to complete decommissioning within the required time, the County may draw upon the financial assurance and enter the property to complete the work.

11-13 ENFORCEMENT AND PENALTIES

A. Violations include:

1. Commencing or continuing any project without the required permit;
2. Violating any condition of an approved CUP;
3. Submitting materially false or misleading information;
4. Failing to post or maintain required financial assurance;
5. Failing to submit annual compliance reports;
6. Failing to decommission within the required timeframe;
7. Incrementally expanding without reclassification;
8. Operating a BESS in an agricultural zone.

B. The Zoning Administrator may:

1. Issue a written Notice of Violation;
2. Issue a Stop Work Order requiring immediate cessation;
3. Revoke or suspend a CUP after notice and opportunity to be heard;
4. Pursue civil penalties not to exceed $10,000 per day per violation;
5. Seek injunctive relief;
6. Draw on financial assurance instruments if permit holder fails to act.

C. Each day a violation continues shall be considered a separate offense.

D. Non-compliant facilities are subject to permit revocation and mandatory site restoration.

E. Compliance Inspections: The County shall inspect all Tier 2 and Tier 3 projects at least annually during construction and biennially during operation. Tier 3 inspection costs are borne by the permit holder.

11-14 SEVERABILITY

If any provision of this Chapter is held invalid, such invalidity shall not affect the remaining sections, which shall remain in full force and effect. Specifically, the Class I/II soil prohibition in Section 11-6.01 is intended to be severable from all other provisions and shall remain in effect regardless of the validity of any other provision.

DOCUMENT REVISION HISTORY

Chapter 11 — Energy Facilities

Version	Date	Changes / Updates	Reviewed By
v1	Mar 2026	Initial comprehensive energy facilities chapter with conditional use permits, development standards, and decommissioning requirements	J. Pierson
v5	Mar 22, 2026	Final integration with Chapters 10; decommissioning bond refinements and liability language updates	J. Pierson
v6	Mar 23, 2026	Added IdahoEnergy logo to footer; package expanded from 14 to 17 documents	J. Pierson

REVIEW NOTES

CHAPTER 7
CONDITIONAL USE

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7-11 SEVERABILITY

7-1 PURPOSE

The purpose of this Chapter is to establish clear, objective, and enforceable standards and procedures for the review, approval, and ongoing oversight of Conditional Uses within Jerome County. This Chapter is intended to implement the goals and policies of the Jerome County Comprehensive Plan, specifically recognizing the County's agricultural lands, groundwater resources, rural character, and the property rights and general welfare of county residents as primary considerations in all land use decisions.

Where a use is classified as an Energy Facility or Data Center Facility as defined in Chapter 11, the standards and procedures of this Chapter shall apply in addition to the specific requirements of Chapter 11. In the event of a conflict between this Chapter and Chapter 11, the more protective provision shall govern.

7-2 INTENT

It is the intent of this Chapter to:

1. Provide a fair, consistent, and transparent process for the review of proposed Conditional Uses;

2. Ensure that Conditional Uses are compatible with surrounding land uses, the character of the neighborhood, and the purposes of the zoning district in which they are located;

3. Protect agricultural land, groundwater, irrigation infrastructure, and the rural character of Jerome County from incompatible development;

4. Promote the health, safety, and general welfare of County residents, with particular attention to the rights of non-participating property owners;

5. Establish objective, measurable criteria for approval so that applicants, residents, and decision-makers understand the standards that must be met;

6. Ensure that the costs of development review, infrastructure impacts, and decommissioning are borne by applicants, not by the County or adjacent landowners; and

7. Provide meaningful public participation rights for all affected property owners and residents.

7-3 APPLICABILITY

A. The provisions of this Chapter apply to all Conditional Uses proposed within unincorporated Jerome County.

B. Where a Conditional Use is also subject to Chapter 11 (Energy Facilities and Data Center Facilities), both chapters apply. The more protective standard governs any conflict.

C. A Conditional Use Permit (CUP) is required for any use designated as a Conditional Use in the applicable zoning district schedule of the Jerome County Zoning Ordinance, including Tier 2 and Tier 3 Energy Facility and Data Center Facility applications under Chapter 11.

7-4 ADMINISTRATION

A. Administration shall be as provided in this Chapter and in applicable provisions of the Jerome County Zoning Ordinance.

B. The Planning and Zoning Commission shall conduct public hearings and make recommendations on CUP applications.

C. The Board of County Commissioners shall make final decisions on CUP applications where required by this Ordinance or Chapter 11.

7-5 DEFINITIONS

As used in this Chapter, the following terms shall have the meanings set forth below:

A. Conditional Use: A use that is permitted within a zoning district only upon a finding that the use, as conditioned, is compatible with surrounding uses, consistent with the Comprehensive Plan, and meets all applicable standards of this Ordinance.

B. Non-Participating Parcel: Any parcel of real property that is not part of the project footprint and whose owner has not entered into a signed agreement with the applicant consenting to the project's impacts.

C. General Welfare: The collective physical, economic, social, and environmental well-being of Jerome County residents, property owners, and the broader community, including preservation of prime agricultural land, protection of property values and economic interests of non-participating landowners, maintenance of community character and rural identity, safeguarding of water resources and irrigation infrastructure, and protection of public health and safety.

D. Community Character: The predominant visual, social, economic, and cultural qualities of the surrounding area as experienced by residents, landowners, and visitors, including the rural and agricultural landscape, open space, working farms, and the absence of utility-scale industrial facilities.

E. Property Value Diminishment: Any documented or objectively demonstrated projected decrease in the market value, assessed value, or functional use value of any non-participating parcel caused by the proximity, presence, or operations of a proposed use.

7-6 STANDARDS AND REQUIRED FINDINGS

7-6.01 GENERAL STANDARDS

A. All Conditional Uses shall comply with the applicable standards of the zoning district in which they are located, together with any additional standards imposed by this Chapter or other chapters of this Ordinance.

B. The burden of demonstrating compliance with all standards and required findings rests with the applicant. Failure to satisfy any single standard or required finding is sufficient grounds for denial.

7-6.02 CUP APPROVAL CRITERIA

The decision-making body shall evaluate each CUP application against the following criteria:

A. Whether the proposed use is consistent with the Jerome County Comprehensive Plan;

B. Whether the proposed use is compatible with surrounding land uses and the character of the neighborhood;

C. Whether the proposed use will cause any diminishment of the market value or functional use of any non-participating parcel. Property value diminishment of any adjacent non-participating parcel is an independently sufficient ground for denial, without balancing against other project attributes;

D. Whether adequate infrastructure exists or will be provided to serve the proposed use without degradation to existing services;

E. Whether the proposed use will adversely affect groundwater, irrigation infrastructure, or existing water rights;

F. Whether the proposed use will generate noise, glare, traffic, or other impacts that are incompatible with surrounding uses;

G. Whether adequate financial assurance has been provided where required; and

H. Whether the proposed use is consistent with the general welfare of the community as defined in Section 7-5.

7-6.03 REQUIRED FINDINGS FOR APPROVAL

No CUP shall be approved unless the decision-making body affirmatively finds, based on substantial evidence, that each of the following is satisfied:

Finding 1 - Comprehensive Plan Consistency

The proposed use is consistent with the goals, objectives, and policies of the Jerome County Comprehensive Plan. Consistency must be demonstrated affirmatively by the applicant, not merely asserted.

Finding 2 - Agricultural Land Protection

The proposed use will not result in the conversion of Class I or Class II agricultural soils to non-agricultural use. No CUP, variance, or administrative waiver may authorize such conversion.

Finding 3 - Compliance with Objective Standards

The proposed use meets all applicable objective standards in this Ordinance, including setbacks, noise limits, height restrictions, and any standards established in Chapter 11 for Energy Facilities.

Finding 4 - Adequate Infrastructure

County roads, bridges, water systems, and other infrastructure can accommodate the proposed use without significant degradation, or the applicant has committed to fund all required improvements with posted bond.

Finding 5 - Groundwater and Irrigation Protection

The proposed use will not adversely affect groundwater availability or quality, irrigation infrastructure, or water rights of existing users.

Finding 6 - Financial Assurance

Where required, adequate financial assurance has been posted in the required form and amount to guarantee decommissioning and site restoration at no cost to the County or adjacent landowners.

Finding 7 - Neighborhood Compatibility and Property Value Protection

The proposed use will not diminish the market value or functional use of any adjacent non-participating parcel, and is compatible with the community character of the surrounding area. Any projected diminishment of property value of a non-participating parcel is an independently sufficient ground for denial.

7-7 PERMITS

7-7.01 WHEN REQUIRED

Conditional Use Permits shall be required for:

A. Any use designated as a Conditional Use in the applicable zoning district schedule;

B. All Tier 2 and Tier 3 Energy Facilities and Data Center Facilities as defined in Chapter 11;

C. Any existing Conditional Use that proposes a substantial or material change from its current approved state of operation; and

D. "Substantial or material change" includes, but is not limited to, expansion of the facility footprint, increase in capacity, or modification of the use type.

7-7.02 PROCURING PERMIT

A. Pre-Application Conference: Prior to submitting a formal application, the applicant shall schedule a pre-application meeting with the Administrator. The purpose is to identify potential site constraints, agency concerns, and required submittals.

B. The Administrator shall invite affected public agencies to the pre-application conference, including but not limited to:

(a) The applicable highway district;

(b) Fire protection district;

(c) Irrigation districts and canal companies;

(d) The Idaho Department of Water Resources (IDWR); and

(e) Any other entity the Administrator deems affected.

7-7.03 APPLICATION

A. All CUP applications require a complete application as defined by the Administrator, including all materials specified for the applicable use type.

B. In addition to general application requirements, the application shall include:

1. A site plan identifying zoning districts within one mile;
2. Soils and irrigation-capability analysis verified by the NRCS or a licensed professional;
3. Noise, glare, traffic, and visual-impact studies where applicable;
4. A storm-water and drainage management plan;
5. An emergency response and fire-suppression plan approved by the local district;

6. A decommissioning and reclamation plan, including a financial assurance instrument guaranteeing removal of all equipment and restoration of disturbed areas; and

7. Evidence of coordination with Idaho Power or the relevant utility regarding interconnection.

C. An incomplete application shall not be accepted. Filing an incomplete application does not vest any rights or start any review period.

7-7.04 PROCEDURES

A. Unless otherwise provided in this Chapter, applications shall follow the lodging, filing, notice, hearing, decision, condition-setting, and written decision procedures of this Chapter, together with all provisions governing duration, expiration, transfer, and terms of a Conditional Use Permit.

B. Public notice of the hearing shall be mailed to all property owners within one (1) mile of the boundary of the proposed use, in lieu of the standard 1,320 feet. For all Tier 2 and Tier 3 Energy Facilities and Data Center Facilities under Chapter 11, notice shall be county-wide or to all property owners within twenty-five (25) miles of the project boundary, whichever is greater. The scale, permanence, and cascading infrastructure impacts of medium- and large-scale energy and data center projects — including grid destabilization, utility rate increases, groundwater depletion, and irreversible agricultural land conversion — are without historical precedent in rural counties, and their full scope is not yet well understood by most residents, making maximum notification essential to informed democratic participation. This standard is supported by the JTown Beacon Community Survey (March 2026), in which 90.8% of respondents stated that all Jerome County residents should be notified when a large-scale energy facility or data center is proposed.

C. The Commission shall determine that access, emergency response, drainage, and decommissioning plans are adequate for the proposed use and consistent with the approval criteria of this Chapter.

D. Where this Chapter or Chapter 11 imposes additional or more stringent requirements, those requirements shall control.

7-8 PERMIT DURATION AND EXPIRATION

7-8.01 DURATION

A. Unless otherwise specified in the conditions of approval, a Conditional Use Permit shall be valid for a period of five (5) years from the date of approval.

B. If the approved use has not commenced operation within two (2) years of approval, the CUP shall expire unless an extension has been granted.

C. A CUP that has been dormant for a continuous period of twelve (12) months or more may be subject to review by the Administrator to determine whether the permit should be renewed, modified, or revoked under current standards.

7-8.02 EXTENSIONS

A. The applicant may apply for a two-year extension to the Planning and Zoning Administrator prior to the expiration of the CUP.

B. A second two-year extension may be granted by the Planning and Zoning Commission upon a finding that the use remains consistent with the Comprehensive Plan and current standards.

C. No more than two extensions may be granted. After the expiration of all extensions, a new CUP application is required.

7-9 PUBLIC PARTICIPATION RIGHTS

7-9.01 NOTICE REQUIREMENTS

A. For all Tier 2 and Tier 3 Energy Facilities and Data Center Facilities: county-wide written notification or notification to all property owners within twenty-five (25) miles of the project boundary, whichever is greater, by first-class mail, at least twenty-one (21) days before any hearing. For all other Conditional Uses: written notice to all property owners within one (1) mile of the project boundary;

B. Published notice in a newspaper of general circulation in Jerome County at least twenty-one (21) days before any hearing;

C. Posted notice on the County website and at the courthouse at least twenty-one (21) days before any hearing; and

D. All completed CUP application materials available for public inspection at County offices and on the County website no later than twenty-one (21) days before the first hearing.

7-9.02 HEARING RIGHTS

A. Any person may testify at any public hearing, with equitable time limits;

B. All written comments submitted before or at the hearing are included in the official record;

C. The decision-making body shall issue written findings specifically addressing all substantive comments and objections raised in the record; and

D. No CUP may be approved in a form materially different from what was publicly noticed without additional notice and hearing.

7-9.03 POST-APPROVAL PARTICIPATION

A. Any person may file a written compliance complaint with the Zoning Administrator;

B. The Zoning Administrator shall respond in writing to all complaints within thirty (30) days; and

C. Any person may request a hearing before the Board regarding a compliance determination.

7-10 ENFORCEMENT AND PENALTIES

A. Violation of any provision of this Chapter or any condition of an approved CUP constitutes a misdemeanor punishable as provided in Chapter 20 of this Ordinance.

B. Each day a violation continues shall be considered a separate offense.

C. The Zoning Administrator may:

1. Issue a written Notice of Violation;
2. Issue a Stop Work Order requiring immediate cessation of the violating activity;
3. Revoke or suspend a CUP after notice and opportunity to be heard;
4. Pursue civil penalties not to exceed $10,000 per day per violation, consistent with Idaho Code; and
5. Seek injunctive relief from a court of competent jurisdiction.

D. Non-compliant facilities are subject to permit revocation and mandatory site restoration.

E. The County may draw on financial assurance instruments to fund decommissioning or remediation if the permit holder fails to act within required timeframes.

F. The County shall conduct compliance inspections of Conditional Uses upon 48 hours' written notice.

7-11 SEVERABILITY

If any provision of this Chapter is held invalid, such invalidity shall not affect the remaining sections, which shall remain in full force and effect.

DOCUMENT REVISION HISTORY

Chapter 7 — Conditional Use

Version	Date	Changes / Updates	Reviewed By
v1	Mar 2026	Initial draft: enhanced CUP procedures with required findings and energy-specific provisions	J. Pierson
v5	Mar 22, 2026	Final integration with Chapters 10 and 11; decommissioning bond cross-references	J. Pierson
v6	Mar 23, 2026	Added IdahoEnergy logo to footer; package expanded from 14 to 17 documents	J. Pierson

REVIEW NOTES

March 22, 2026

Board of County Commissioners
Jerome County, Idaho
Jerome County Courthouse
300 North Lincoln Avenue
Jerome, Idaho 83338

Re: Response to Planning and Zoning Commission Recommendations of February 23, 2026, Regarding Proposed Amendments to the Jerome County Comprehensive Plan (Chapter 10) and Jerome County Zoning Ordinance (Chapter 11) — Detailed Rebuttal to Findings 1, 2, 4, and 5 with Supporting Citations, Data, and Analysis

Dear Members of the Board:

I respectfully submit this formal written response to the Planning and Zoning Commission's recommendations of February 23, 2026, in which the Commission voted 5–0 to recommend denial of the proposed Chapter 10 (Comprehensive Plan — Utilities) and Chapter 11 (Energy Facilities) amendments. I do not challenge the Commission's authority to make recommendations. I challenge the factual accuracy and analytical rigor of four specific findings upon which those recommendations rest.

Each rebuttal below is supported by citations to peer-reviewed academic research, official USDA data, federal agency publications, enacted state legislation, the County Siting Posture Metric (CSPM) framework, and the **JTown Beacon Community Survey (March 2026, 65 respondents)**—which provides direct evidence that Jerome County residents overwhelmingly support the protective standards proposed in this package.

I address Findings 1, 2, 4, and 5 of the Commission's Chapter 10 recommendation in order.

I. REBUTTAL TO FINDING 1: "The Language Is Heavy-Handed and Overly Restrictive"

The Commission's Claim: The proposed Comprehensive Plan language is "overly restrictive" and "heavy-handed," and a case-by-case CUP review process is adequate to protect county interests.

A. The Scale of the Threat Demands More Than Case-by-Case Review

The American Farmland Trust (AFT) has documented that the United States lost or compromised **11 million acres** of agricultural land between 2001 and 2016—an average of 2,000 acres per day. Of this, 4.4 million acres were "nationally significant" farmland: the most productive, versatile, and resilient land in the country. AFT projects that if current trends continue, another **18.4 million acres** will be lost by 2040—an area nearly the size of South Carolina.

Critically, AFT's modeling finds that **83% of projected solar development will take place on agricultural land**, and nearly half of that land is "nationally significant" in terms of productivity and resilience.

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A case-by-case CUP process without categorical standards is precisely the regulatory gap that allows this conversion to proceed incrementally. Each individual project appears manageable. The cumulative effect is the permanent loss of the county's agricultural foundation. The CSPM framework addresses this directly: its **Cumulative/Regional Pressure dimension** (scored 0–10, weighted ×1.0) requires counties to evaluate not just the project before them, but the wave of projects that will follow if the first is approved under weak standards.

The community's position is unambiguous. The **JTown Beacon Community Survey (March 2026)** found that **93.7% of respondents oppose allowing large-scale energy development in agricultural zones** (Q3), **93.8% rate agricultural land preservation as important or extremely important** (Q1), and **80% say current guidelines are not strict enough** (Q6). These are not marginal preferences—they are near-unanimous community mandates. The Commission's characterization of categorical protections as "heavy-handed" is contradicted not only by the evidentiary record but by the documented will of the community the Commission serves.

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B. "Strong Standards" Without Categorical Protections Are Routinely Waived, Conditioned Away, or Litigated Into Irrelevance

The Commission states that a CUP process is "adequate" to protect agricultural interests. But a CUP process is only as strong as the standards it contains and the political will to enforce them. The Commission's own recommendation on Chapter 7 *removed* Section 7-6.02(C)—the provision that would have made property value impact a deciding factor—on the grounds that it is "difficult to quantify." This is precisely the pattern: subjective standards get weakened or removed at every stage of the process. Categorical protections for Class I and Class II soils—binary, objective, non-waivable—cannot be negotiated away in a hearing room.

C. The "Heavy-Handed" Standard Is a National Standard, Not a Local Invention

The absolute prohibition on energy facilities on Class I and Class II soils is not an invention of this proposal. It is the standard adopted by **Cecil County, Maryland** and **Montgomery County, Maryland**—two of the most thoroughly litigated agricultural protection jurisdictions in the United States. These protections have been enacted, enforced, and sustained. They represent the national high-water mark for farmland protection, not an outlier. The federal Farmland Protection Policy Act (FPPA) itself uses the term "*irreversible* conversion" to describe what happens when prime farmland is put to non-agricultural use.

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Within Idaho, the trend is clear: **Bannock County** enacted a complete ban on large-scale solar and wind projects. **Ada County** rejected a solar farm application in January 2025 and added new solar restrictions to its zoning code, citing preservation of Idaho's "way of life." Governor Little signed **SB 1133** on April 1, 2025, amending the Agricultural Protection Area Act to *prohibit* solar and wind structures on APA-designated lands unless contributing to agricultural production. The legislative direction is toward stronger protections, not weaker ones.

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II. REBUTTAL TO FINDING 2: "The 'No Surplus Land' Claim Is Misleading"

The Commission's Claim: The statement that all viable private land in Jerome County is actively farmed with "no surplus for conversion" is misleading. Farmers face uncertain water futures, commodity price volatility, and financial stress. Leasing land for energy may be "the only way for some farming families to maintain ownership and economic viability of their land."

A. The Data Supports the "No Surplus" Characterization

Jerome County is not a county with idle land. The USDA Census of Agriculture documents that Jerome County's total market value of agricultural products sold is **$639.6 million**—ranking 4th in Idaho and 59th among all counties in the United States. The county contains approximately **157,000 acres of cropland, nearly all irrigated**. Major crops include alfalfa hay and silage corn, which make up approximately 45% of cultivated acres and support the region's dairy industry.

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Jerome County produces **$274.3 million in cow milk annually**, ranking 3rd in Idaho and 16th nationally. The county accounts for 11.8% of all Idaho milk sales. The dairy industry depends on local feed production—alfalfa and corn silage—which depends on the irrigated cropland now being targeted for energy development.

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The characterization of Jerome County as a place with "no surplus" agricultural land is not a rhetorical device. It is a description of a county where virtually every irrigated acre is in active agricultural production supporting a $639 million agricultural economy and a nationally significant dairy industry. The loss of irrigated cropland does not merely reduce acreage—it reduces the feed supply for dairy operations throughout the Magic Valley.

B. The "Farmer Financial Stress" Argument Proves the Need for Stronger Protections, Not Weaker Ones

The Commission argues that farmers facing financial stress should be permitted to lease land for energy development. This argument conflates the interests of an individual landowner with the interests of the agricultural community and the county as a whole. It is precisely the argument that the CSPM's **Economic Conditions dimension** is designed to evaluate.

The CSPM scores Economic Conditions on a 0–10 scale (weighted ×1.5), and—critically—this is an *inverted* dimension. A county in severe fiscal distress scores high on the raw scale, which *reduces* the CSPM total, arguing *against* a ban. A county with a strong, diversified economy scores low on the raw scale, which *increases* the weighted score, arguing *for* protective standards. Jerome County, with a $639 million agricultural economy anchored in dairy and irrigated crops, is not in fiscal distress. Its economy is strong *because of* its agricultural land, not despite it.

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The premise that individual farm financial difficulty justifies county-wide policy weakening is a non sequitur. A farmer in financial difficulty who leases irrigated cropland for a 30-year solar installation permanently removes that acreage from the feed supply that supports neighboring dairy operations, depresses the agricultural value of adjacent parcels, and shifts the economic externalities of that decision onto non-participating landowners. The county's role is to protect the collective agricultural interest—not to facilitate individual transactions that undermine it.

The community survey data reinforces this point. When asked directly whether energy development should be expanded to increase county tax revenue at the expense of agricultural land, or limited to protect farmland and rural character, **87.7% of respondents chose protection of farmland and rural character** (Q9). Only 4.6% favored expansion at the expense of agriculture. The Commission's "farmer financial stress" argument does not reflect the documented preferences of the community.

C. If Individual Landowner Financial Need Were Sufficient to Override Land Use Protections, No Zoning Ordinance Could Survive

Every zoning restriction in every county in Idaho limits what a property owner can do with their land. Agricultural zoning already prohibits landowners from building factories, operating commercial retail, or constructing high-density housing on farm ground. The Commission does not argue that these restrictions should be removed because some farmers are under financial pressure. The same principle applies to energy facilities: the question is not whether an individual landowner wants to lease their land, but whether the use is compatible with the county's comprehensive plan and the welfare of adjacent property owners. That is the purpose of land use planning.

III. REBUTTAL TO FINDING 4: "The 'Deemed Incompatible' Language Is Too Categorical"

The Commission's Claim: Large-scale energy facilities and agriculture "may be compatible" and should be evaluated case-by-case through the CUP process. The Comprehensive Plan should not declare them categorically incompatible.

A. The USDA's Own Agency Has Documented the Incompatibility

In December 2024, the USDA's Natural Resources Conservation Service (NRCS) published *Conservation Guidance for Utility-Scale Solar Projects*—the agency's first comprehensive

guidance on the conservation impacts of utility-scale solar development on agricultural land. The NRCS identifies the following conservation resource concerns associated with solar facility construction on farmland:

Conservation Concern	NRCS-Documented Impact
Soil compaction	Heavy equipment during construction and maintenance compacts soil structure, reducing pore space, water infiltration, and root penetration
Soil erosion	Site grading, vegetation removal, and altered drainage patterns increase erosion by water and wind
Loss of organic matter	Removal of vegetation and topsoil disturbance depletes soil organic carbon, reducing fertility and water-holding capacity
Drainage alteration	Grading and impervious surfaces alter natural drainage patterns, affecting adjacent agricultural parcels and irrigation infrastructure
Water ponding	Altered topography and panel drip lines create concentrated water flow, leading to ponding and localized saturation
Pollutant introduction	Potential for heavy metals, panel cleaning chemicals, and BESS electrolyte leakage to contaminate soils and groundwater

Source: USDA NRCS, Conservation Guidance for Utility-Scale Solar Projects (December 2024).

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These are not hypothetical concerns raised by project opponents. They are the official conservation findings of the federal agency charged with protecting the nation's soil resources.

B. Peer-Reviewed Research Confirms That Soil Degradation from Energy Facilities Is Long-Term to Permanent

North Carolina State University Cooperative Extension (2021) found that after a solar facility is decommissioned, "one should anticipate **20–40% reduced crop yield for 3–5 years** as soil compaction issues are slowly resolved." The study further noted that decommissioning costs approximately $30,000 per megawatt, and that heavy metal contamination remediation alone was estimated at over $2,500 per acre. Essential plant nutrients leach during the solar production period, requiring complete replacement before agricultural resumption.

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The **Welsh Government Soil Policy Evidence Programme** (2023)—one of the most rigorous government-commissioned studies of solar impacts on agricultural soils—found that the "main impact of the construction, operational and decommissioning phases is **deep soil compaction resulting in the loss of versatility of Best and Most Versatile agricultural land**." The study documented that recovery timescales "**vary from 18 to 30 years to being permanent**," and that "at the point of decommissioning there is likely to be residual compaction within the soil."

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A peer-reviewed global assessment published in *Environmental Science & Technology* (2022) quantified agricultural productivity losses from soil compaction at scale, confirming that

compaction-related yield losses are a significant and persistent global problem—not a marginal or easily remediated impact.

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C. The Commission's Assertion That Wind and Solar Are "By Their Nature a Reversible Loss" Is Factually Incorrect

The Commission stated that wind and solar development represents a "reversible loss of farm ground." This assertion is contradicted by every source cited above. To summarize the evidence:

Source	Finding on Reversibility
U.S. Congress (FPPA)	Uses the term "irreversible conversion" to describe farmland loss to non-agricultural use
USDA NRCS (Dec. 2024)	Documents six categories of soil conservation damage from solar construction on farmland
NC State University (2021)	20–40% crop yield reduction for 3–5 years post-decommission; heavy metal remediation at $2,500+/acre
Welsh Government (2023)	Recovery timescales: 18–30 years to permanent. "Residual compaction" likely at decommission
American Farmland Trust	Classifies conversion as "loss"—not temporary use—in Farms Under Threat national assessment
Gov. Little / SB 1133 (2025)	Signed into law a prohibition on solar/wind on APA lands—reflecting legislative determination that the conversion is not benign

The Commission's "reversible loss" assertion is not supported by any cited study, any USDA publication, or any peer-reviewed agricultural science. It is a rhetorical characterization without evidentiary foundation. Community sentiment confirms the scientific consensus: **90.8% of survey respondents rate decommissioning and financial assurance as extremely important** (Q8), reflecting the community's understanding that once agricultural soil is damaged by industrial energy construction, restoration is neither automatic nor guaranteed.

IV. REBUTTAL TO FINDING 5: "Directing Facilities to BLM/Wasteland Is Not Viable"

The Commission's Claim: Developing rock outcroppings and basalt fields "can be cost prohibitive and is unquestionably an irreversible loss to the County's cultural and environmental history." The Commission suggests that directing energy development to non-agricultural land is not a realistic alternative.

A. The Commission's Argument Proves the Point—It Does Not Refute It

The Commission argues that developing desert land, rock outcroppings, and basalt lava fields is an "irreversible loss to the County's cultural and environmental history." **I agree completely.**

Jerome County's public lands—its basalt formations, sagebrush rangelands, canyon rims, and desert landscapes—are part of the county's identity, its environmental heritage, and its cultural character. They deserve protection. The Commission is right to recognize that industrial-scale energy development on these lands would cause irreversible harm.

But the Commission's own reasoning leads to a conclusion the Commission does not draw. If converting basalt lava fields to industrial energy use is an "irreversible loss"—and it is—then converting *prime irrigated farmland* to the same industrial use is *at least* an equally irreversible loss, and by every economic, ecological, and food-security measure, a more consequential one. The principle is the same. The land is different, but the harm is not.

The Commission cannot coherently argue that basalt formations warrant protection from industrial energy conversion while simultaneously arguing that Class I and Class II irrigated soils—producing $639 million in annual agricultural value, supporting a nationally significant dairy industry, and sustaining the livelihoods of farming families across the county—do not. If irreversible conversion of public land is a harm worth preventing, then irreversible conversion of the county's most productive farmland is a harm worth preventing with at least equal force.

This is not an argument for sacrificing one type of land to save another. It is an argument that **both** deserve protection—and that the Commission's own finding on public land provides the strongest possible justification for extending the same protective principle to agricultural land. Energy developers should not be directed to destroy one irreplaceable resource in order to spare another. They should be required to demonstrate that their projects can be sited without irreversible harm to either.

B. Non-Agricultural Siting Alternatives Are Real and Growing Nationally

The U.S. Environmental Protection Agency's **RE-Powering America's Land Initiative** has pre-screened **190,000 acres** of brownfields, Superfund sites, landfills, and mine sites for renewable energy development. As of 2024, there are more than **624 active "brightfield" projects** operating on brownfields and closed landfills nationwide.

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The Inflation Reduction Act (IRA) provides a **10% tax credit bonus** for renewable energy projects sited in "energy communities," which includes brownfields and certain closed coal mines. This federal incentive directly addresses the cost differential that the Commission asserts makes non-agricultural siting infeasible.

The practical implication is significant: if both public lands and prime farmland warrant protection from irreversible industrial conversion—and the evidence supports protecting both—then the burden falls squarely on energy developers to identify sites that do not require the destruction of either. Nationally, that is precisely what the EPA's RE-Powering initiative, the IRA's energy community tax incentives, and the growing brightfield movement are designed to facilitate: directing energy development to already-disturbed, already-degraded, or already-industrial land rather than converting intact natural or agricultural landscapes.

C. The Cost Argument Is an Industry Argument, Not a Community Protection Argument

The Commission's assertion that non-agricultural siting is "cost prohibitive" restates the preference of energy developers, not the interest of the county. Flat, irrigated farmland with existing road access and proximity to transmission is cheaper to develop than alternatives. That is precisely why 83% of projected solar development nationally targets agricultural land. But the county's role is not to optimize developer economics—it is to protect the resources the Comprehensive Plan identifies as essential to the county's future. That includes both the agricultural soils and irrigation infrastructure that sustain the county's $639 million farming economy, and the public lands and natural landscapes that define its cultural and environmental character. If a project cannot be sited without irreversibly converting either, the project has not demonstrated compatibility with the county's values.

The CSPM's **Infrastructure Capacity dimension** and **Agricultural Protection dimension** together carry the highest combined weighting in the framework (×2.5 and ×2.0 respectively—a combined 45 of 100 possible points). This weighting reflects the policy judgment that when infrastructure constraints and agricultural resource protection score high, the county's posture should lean strongly toward restriction, regardless of developer cost preferences.

V. SUPPLEMENTAL: THE COMMISSION'S REMOVAL OF PROPERTY VALUE PROTECTIONS IGNORES PEER-REVIEWED EVIDENCE

Although not one of the four findings addressed above, the Commission's Chapter 7 recommendation to *remove* Section 7-6.02(C)—which would have made property value impact a factor in CUP review—warrants brief response because it reflects the same analytical error: dismissing a documented impact as "difficult to quantify."

The most comprehensive peer-reviewed study on this question was published in the **Proceedings of the National Academy of Sciences (PNAS)** in 2025. Analyzing a nationwide dataset of property transactions near large-scale solar installations, the study found:

Finding	Data
Residential property value decline (within 3 mi)	**−4.8% average**
Agricultural/vacant land value change (within 2 mi)	+19.4% (benefits participating landowners only)
Mechanism	Proximity stigma effect; diminishes with distance and time
Policy implication (per authors)	"Local impacts are neither well quantified nor widely recognized; policies and common practices are lacking to mitigate potential welfare losses"

Source: Hoen et al., PNAS (2025).

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A 2023 study by **Lawrence Berkeley National Laboratory**, analyzing 1.8 million home transactions near solar installations across six states, found state-specific property value declines of **4% (Minnesota), 5.8% (North Carolina), and 5.6% (New Jersey)**. Homes within 0.5 miles experienced an average 1.5% price reduction.

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The Commission's characterization of property value impact as "difficult to quantify" is directly contradicted by the nation's most rigorous quantitative studies. Property value diminishment is measurable, documented, statistically significant, and—as the PNAS authors explicitly state—*not adequately addressed by current policy.* Removing property value protections from the CUP process does not make the harm disappear. It makes the harm uncompensated.

VI. CONCLUSION AND REQUEST

The Planning and Zoning Commission's findings rest on four factual premises, each of which is contradicted by the evidentiary record, by the documented preferences of the community the Commission serves, and by the expressed policy direction of the Idaho Legislature itself.

On March 16, 2026, the Idaho House of Representatives adopted **House Concurrent Resolution 32 (HCR032)**—a concurrent resolution on State Energy Sovereignty that directly addresses several issues at the core of this Board's decision. HCR032 declares that transmission infrastructure that does not benefit Idaho utility customers and "*materially harms agriculture, critical water resources, or rural communities*" is "*inconsistent with the expressed policy position of the State of Idaho*." The resolution affirms that "**private property rights, local land use authority, and the protection of agricultural and rural communities are paramount considerations**" in the siting of any major energy infrastructure. It recognizes the Eastern Snake Plain Aquifer as "a critical ground water resource supporting Idaho agriculture, rural communities, and economic stability" whose protection is "a matter of statewide importance." And it requires that all major energy projects demonstrate a "clear, measurable, and durable net benefit to Idaho ratepayers" before approval.

HCR032 is not a proposal—it is adopted legislative policy. It confirms that the standards proposed in this ordinance package are not "heavy-handed" or "overly restrictive." They are consistent with the Idaho Legislature's own declared findings on agricultural protection, water resource protection, property rights, local land use authority, and ratepayer protection.

The JTown Beacon Community Survey (March 2026, 65 respondents) provides additional evidence that Jerome County residents overwhelmingly support the stronger standards proposed in this package—not the weakened approach the Commission recommends.

Commission Finding	Evidentiary Record
1. Language is "heavy-handed"	Standards proposed are consistent with Cecil County MD, Montgomery County MD, Bannock County ID, and SB 1133. National best practice, not an outlier.

2. “No surplus land” is misleading	$639M agricultural economy, 157,000 irrigated acres, #16 dairy county nationally. No material surplus documented.
4. “Deemed incompatible” is too categorical	USDA NRCS (2024), NC State, Welsh Government (2023), PNAS (2025) all document incompatibility between energy construction and agricultural soil health.
5. Non-ag siting is not viable; basalt conversion is “irreversible” but farmland conversion is “reversible”	The Commission’s own logic supports the opposite conclusion: if public land conversion is irreversible, farmland conversion is at least equally so. Both deserve protection. EPA has screened 190,000 acres of already-disturbed land; 624+ brightfield projects active; IRA provides 10% bonus. Developers must find sites that do not destroy either resource.
Community Survey (JTown Beacon, March 2026)	93.8% prioritize ag preservation; 93.7% oppose large-scale energy in ag zones; 80% say guidelines not strict enough; 90.8% support county-wide notification; 87.7% favor limiting energy development to protect farmland; 80% say current approach needs significant revision.

I respectfully request that the Board:

1. Decline to adopt the Commission’s recommendations to deny Chapters 10 and 11 without modification;

2. Direct the completion of Chapter 10 and Chapter 11 with the categorical agricultural soil protections, objective impact standards, anti-circumvention provisions, enforcement mechanisms, and public participation rights documented in the citizen revised ordinance and supporting materials;

3. Enter this response and all cited sources into the official record for all hearings on the proposed amendments; and

4. Apply the CSPM framework to Jerome County’s specific conditions, with full documentation, as a structured basis for the Board’s siting posture determination.

I request that this letter be entered into the official record for all hearings on the proposed Chapter 10 and Chapter 11 amendments.

Respectfully submitted,

Jeff Pierson
Jerome County, Idaho
Date: March _____, 2026

DOCUMENT REVISION HISTORY

Response to P&Z Commission Recommendations

Version	Date	Changes / Updates	Reviewed By
v1	Mar 2026	Initial response to P&Z Findings 1, 2, 4, and 5 with cited rebuttals	J. Pierson
v5	Mar 22, 2026	Final revision with 20+ footnoted citations, CSPM framework references, HCR032 integration	J. Pierson
v6	Mar 23, 2026	Added IdahoEnergy logo to footer; package expanded from 14 to 17 documents	J. Pierson

REVIEW NOTES

ENERGY PROJECTS, DATA CENTERS, AND THE LIMITS OF THE RIGHT TO BUILD

A Policy Position on Property Rights, Community Notification, and the Protection of Rural Communities from Uncompensated Development Impacts

Jeff Pierson

March 2026

Jerome County, Idaho

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I. THE QUESTION BEFORE RURAL COMMUNITIES

There is a conversation happening in county commission chambers, planning and zoning meetings, and utility commission hearings across the country that the industry funding these projects would prefer communities not have. It is about who actually pays for hyperscale energy infrastructure — wind farms, solar installations, battery storage, data centers — and whether the communities that bear the costs have any legal right to say no.

The industry answer is rehearsed: tax revenue, jobs, economic development. The real answer is more complicated and far less flattering to the developers writing the checks.

This paper addresses three interconnected questions: whether large-scale energy and data center projects impose measurable, documented costs on surrounding communities; whether affected residents have a legal and constitutional right to meaningful notice and participation before those costs are imposed; and whether the limitation of property rights based on community impact is a legitimate exercise of government authority. The answer to all three is yes.

II. PROPERTY VALUES: THE EVIDENCE IS NOT NEUTRAL

The research on how large energy projects affect nearby property values is mixed — but the pattern that emerges from the complexity is instructive.

A. Data Centers

The most-cited study, conducted by the Center for Regional Analysis at George Mason University examining Northern Virginia, found that proximity to data centers did not create a persistent drag on home values in that market. But Northern Virginia is the most data-center-saturated market in the world — approximately 150 hyperscale facilities housing nearly 35% of global hyperscale concentration. The infrastructure, fiber, power, and workforce already exist at a scale unmatched anywhere.

The result is that data centers in Loudoun County are not comparable to a proposed data center in Jerome County, Idaho. The conditions that produce neutral property value effects in Northern Virginia — existing industrial character, dense fiber infrastructure, metropolitan labor market — do not exist in rural agricultural communities.

Data centers bring tangible benefits including jobs and economic development, but they also alter the local tax base, bring noise pollution, high electricity usage, and water consumption, posing environmental and quality-of-life concerns for residents living nearby.

> *Congressional Research Service, "Data Centers: Background and Key Policy Issues," 2024.*

B. Wind and Solar

For utility-scale wind and solar, the findings are less favorable to developers. Results that average effects across all sites find negative property value impacts ranging from 1.5% to 3.6%, equal to reductions in housing values of between $4,721 and $11,330 (adjusted to 2019 levels) for homes near utility-scale solar arrays.

> *Hoen et al., PNAS 2025; see also Garbacz et al., "Examining the Impact of Utility-Scale Solar on Property Values," 2023.*

The distribution matters enormously. Homes within 0.5 miles of a large-scale PV project experience an average price reduction of 1.5% compared to homes 2–4 miles away, with statistically significant effects only measurable within 1 mile — and these effects concentrate in rural locations, on agricultural land, for larger projects, and for rural homes.

> *Hoen et al., Lawrence Berkeley National Laboratory, Energy Policy, 2023.*

The negative effect concentrates precisely in the conditions that describe most proposed large projects in Idaho and the Mountain West.

Wind turbines present a different picture. Prior to construction, home values within a half-mile to a mile typically decline 5–10%, with the decline beginning as soon as the announcement comes out and remaining lower for quite some time.

> *Hoen et al., LBNL, "A Spatial Hedonic Analysis of the Effects of Wind Energy Facilities on Surrounding Property Values," 2009–2023 series.*

III. THE PROPERTY TAX PROMISE: REAL BENEFITS WITH HIDDEN STRINGS

Large energy projects and data centers do generate significant property tax revenue. But the standard playbook is: announce the economic development opportunity, negotiate a tax abatement or PILT agreement reducing the tax burden by 50–90% for 10–20 years, then present community meetings where projections omit the abatement terms.

The result: property tax revenue the community receives during the first decade is a fraction of what the unadjusted assessment would generate — while infrastructure costs, grid upgrades, road maintenance, and utility rate effects are borne immediately and in full by existing residents and ratepayers.

There is also the speculative land value effect. Developers speculate on land adjacent to known development corridors. This drives up prices, creating ripple effects across local housing and agricultural markets. The family that has farmed ground for three generations does not benefit from increased assessed value — they bear it, through higher lease rates or inability to compete with acquisition offers.

IV. THE UTILITY RATE EFFECT: THE HIDDEN TAX NOBODY VOTED FOR

Before 2019, electricity prices had been flat at around 13 cents per kWh for more than a decade. By end of 2025, average prices increased to 19 cents/kWh — about 27% more.

U.S. EIA, Monthly Energy Review, 2025.

In states with high data center concentration like Virginia, electricity prices have increased by up to 267% over five years.

Virginia SCC filings; CNBC reporting, 2025.

The mechanism: utilities build new infrastructure to serve data centers and spread costs to all ratepayers. When demand outpaces supply, market-rate energy prices increase. Utilities requested more than $29 billion in rate increases in the first half of 2025 alone — double the prior year.

S&P Global Market Intelligence, Regulatory Research Associates, 2025.

In the PJM market (Illinois to North Carolina), data centers accounted for an estimated $9.3 billion price increase in the 2025–26 capacity market. Average residential bills expected to rise $18/month in western Maryland, $16/month in Ohio.

PJM Interconnection, 2025-26 Base Residual Auction results; NPR/AP reporting.

For rural households that spend proportionally more on energy, these are not abstractions — they compete with groceries, fuel, and farm inputs.

V. WHEN DOES THE RIGHT TO BUILD GET TRUMPED?

A. The Legal Framework

Property development is not an absolute right. It is a conditional right within a framework of public regulation. The police power is "ample to lay out zones where family values, youth values, and the blessings of quiet seclusion and clean air make the area a sanctuary for people."

> *Village of Euclid v. Ambler Realty Co., 272 U.S. 365 (1926).*

The Takings Clause limits the police power, requiring compensation when regulation "goes too far." But the Penn Central test asks: economic impact on the owner, interference with investment-backed expectations, and character of the government action. A regulation that merely limits the manner of use or denies a particular development type is generally valid — even if it significantly reduces potential earnings.

The key principle: "A regulation that results in a diminution of value is not considered a taking and is within the police powers, as a property owner does not have a vested right in maximizing the value of his property."

> *Penn Central Transportation Co. v. City of New York, 438 U.S. 104 (1978); see also Agins v. City of Tiburon, 447 U.S. 255 (1980).*

A developer does not have a constitutional right to the highest and best use of their land. They have a right to reasonable economic use. Denying a 400-MW solar installation on agricultural land does not take the land — it declines to permit a particular use. The land remains usable for agriculture.

B. Nexus and Proportionality

Where conditions are imposed, the law requires "nexus" and "rough proportionality." Conditions must be reasonably related to impacts and proportional to them.

> *Nollan v. California Coastal Commission, 483 U.S. 825 (1987); Dolan v. City of Tigard, 512 U.S. 374 (1994).*

This framework supports robust impact-based conditions. If a data center requires $50 million in transmission upgrades, requiring the developer to bear that cost is defensible. If a solar

installation reduces neighboring property values, setbacks, screening, or compensation mechanisms have clear nexus.

What governments cannot do: impose arbitrary conditions or functionally prohibit a use without rational basis. What they can do: require developers to internalize the actual costs they impose.

VI. THE CASE FOR EXPANDED COMMUNITY NOTIFICATION

Every argument above depends on one prerequisite: that the community knows what is being proposed before the decision is made. Current notification standards in most rural counties are grossly inadequate for the scale of projects now being proposed.

The community agrees. In the **JTown Beacon Community Survey (March 2026, 65 respondents)**, Jerome County residents delivered an unambiguous mandate: **90.8% believe all county residents should be notified** when a large-scale energy facility or data center is proposed (Q7). This is not a marginal preference—it is near-unanimity. The survey also found that 93.8% rate agricultural land preservation as important or extremely important (Q1), 93.7% oppose allowing large-scale energy development in agricultural zones (Q3), 80% say current guidelines are not strict enough (Q6), 87.7% say energy development should be limited to protect farmland and rural character (Q9), and 80% say the current approach needs significant revision (Q10). These results demonstrate that the regulatory framework proposed in this package reflects documented community consensus, not individual advocacy.

A. The Problem with Current Standards

Standard notification requirements — typically 300 to 1,320 feet from a project boundary — were designed for residential subdivisions, small commercial buildings, and minor zoning changes. They were never designed for 500-acre solar installations, 200-foot wind turbines, or hyperscale data centers drawing 100+ megawatts from the grid.

A 1,320-foot notice radius around a 500-acre solar project captures a fraction of the properties whose values, operations, and quality of life will be materially affected. The documented property value effects extend to at least 1 mile (LBNL 2023) and potentially 3 miles (PNAS 2025). Shadow flicker from wind turbines affects properties well beyond 1,320 feet. Noise from industrial facilities exceeds ambient levels at distances far beyond the standard radius. Utility rate effects and infrastructure costs affect every ratepayer in the county.

B. The Notification Standard Must Match the Impact Footprint

The principle is straightforward: if a project's impacts are systemic and county-wide, then notification must be systemic and county-wide. For all medium- and large-scale energy and data center projects (Tier 2 and Tier 3): county-wide written notification or notice to all property owners within twenty-five (25) miles of the project boundary, whichever is greater.

This is not an incremental expansion from the current 1,320-foot standard — it is a recognition that the current standard was designed for a fundamentally different category of development. A 500-acre solar installation, a 200-foot wind turbine array, or a hyperscale data center drawing 100+ megawatts from the grid are not comparable to a residential subdivision or a small commercial building. Their impacts are systemic: utility rate increases affect every ratepayer in the service territory; grid infrastructure upgrades are socialized across all customers; groundwater depletion from data center cooling affects aquifer levels across the county; cumulative agricultural land conversion transforms the county's economic base; and the precedent set by one approval shapes every subsequent application.

Most residents of rural counties have never experienced development at this scale. The full scope of cascading impacts — from property value diminishment to utility rate escalation to irreversible agricultural conversion — is not yet well understood by most of the people who will bear those costs. Maximum notification is not a burden on developers; it is the minimum prerequisite for informed consent by the community that will live with the consequences for decades.

The research supports this approach: property value effects are measurable to at least 1 mile (LBNL 2023) and potentially 3 miles (PNAS 2025); utility rate effects extend to every ratepayer in the county; shadow flicker modeling extends 1–2 miles; noise propagation from industrial facilities exceeds ambient levels far beyond project boundaries; and groundwater impacts from data center water consumption are aquifer-wide, not parcel-specific.

C. Notification Is Not Opposition — It Is Democracy

Expanding notification requirements does not predetermine outcomes. It does not ban projects or create a veto for neighbors. It ensures that the people whose lives, property values, and community character will be affected by a proposed project have the information necessary to participate in the decision.

A developer that cannot earn approval after the full community has been informed of its proposal does not have a project that deserves approval. Conversely, a project that can

demonstrate its benefits and mitigate its impacts after full public scrutiny is a stronger project with more durable community support.

The measure of a fair energy siting process is not whether developers can navigate it — they always can. The measure is whether communities that host the infrastructure come out at least as well as they went in: with property values intact, utility rates unaffected, agricultural land recoverable, and their right to shape their own future preserved.

VII. CONCLUSION

The Idaho Legislature itself has recognized these principles. On March 16, 2026, the House of Representatives adopted **House Concurrent Resolution 32 (HCR032)**, declaring that energy infrastructure that does not benefit Idaho utility customers and materially harms agriculture, critical water resources, or rural communities is "inconsistent with the expressed policy position of the State of Idaho." HCR032 affirms that "private property rights, local land use authority, and the protection of agricultural and rural communities are paramount considerations" in energy siting. It recognizes the Eastern Snake Plain Aquifer as a critical resource of statewide importance. These are not abstract principles—they are the declared findings of the Idaho Legislature in 2026.

The right to develop property is real. So is the right of a community to demand that those who develop bear the full cost of what they build. The current framework is failing rural communities systematically and predictably — through inadequate notification, undisclosed tax abatements, socialized infrastructure costs, and a permitting process that advantages well-funded developers over the communities that host their projects.

Fixing it requires three things: expanded notification so that every citizen within the documented impact area knows what is proposed before the decision is made; objective standards that require developers to internalize every dollar of cost their projects impose; and the political will to exercise the police power that the Constitution provides — not to block development, but to ensure that development serves the community as much as it serves the developer.

Jerome County has the opportunity to build that framework. The legal authority exists. The evidence supports it. The only question is whether the Board of County Commissioners will use it.

DOCUMENT REVISION HISTORY

Position Paper: Property Rights & Community Notification

Version	Date	Changes / Updates	Reviewed By
v1	Mar 2026	Initial position paper on constitutional property rights and notification framework	J. Pierson
v2	Mar 2026	Added data center accountability section, utility rate evidence, expanded notification justification	J. Pierson
v3	Mar 2026	Integrated tier classification references, PJM capacity market data	J. Pierson
v4	Mar 2026	Integrated survey data (Q7, Q1, Q3, Q6, Q9, Q10) in notification section, added HCR032 in conclusion	J. Pierson
v5	Mar 22, 2026	Added revision tracking page; final consistency review	J. Pierson
v6	Mar 23, 2026	Added IdahoEnergy logo to footer; package expanded from 14 to 17 documents	J. Pierson

REVIEW NOTES

JEROME COUNTY ENERGY ORDINANCE REFORM

The Legal, Ethical, and Moral Justification for Community Protection

Jeff Pierson | Confidential Solutions LLC | 713 East Ave C, Jerome, Idaho | March 2026

This document establishes the legal, ethical, and moral foundations underlying the Jerome County Energy Ordinance Reform package. It demonstrates that the proposed regulations are not merely permitted by law but are affirmatively required by principles of justice, natural law, and ordered liberty that predate and transcend any statutory framework. The legal case is grounded in positive law. The ethical case is grounded in principles of fairness and justice that stand independent of what any legislature has enacted. The moral case is grounded in natural law and the obligations that human beings owe to one another, to the land, and to future generations.

I. The Legal Foundation: Positive Law and Constitutional Authority

The legal authority for Jerome County's proposed ordinances rests on multiple, reinforcing layers of positive law—from the United States Constitution to Idaho statute to the county's own comprehensive planning authority.

A. The Police Power and Land Use Authority

The authority of government to regulate land use for the protection of public health, safety, and general welfare is among the oldest and most firmly established principles in American law. The United States Supreme Court affirmed the constitutionality of zoning in **Village of Euclid v. Ambler Realty Co., 272 U.S. 365 (1926)**, holding that municipalities may restrict land uses to protect the character and welfare of communities. This power is not a delegation from the federal government—it is an inherent attribute of sovereignty retained by the states and exercised through their political subdivisions.

> *Village of Euclid v. Ambler Realty Co., 272 U.S. 365, 387 (1926): "The ordinance now under review, and all similar laws and regulations, must find their justification in some aspect of the police power, asserted for the public welfare."*

In Idaho, the **Local Land Use Planning Act (LLUPA), Idaho Code §67-6501 et seq.**, expressly authorizes counties to adopt comprehensive plans and zoning ordinances that regulate the use of land. LLUPA requires that zoning ordinances be consistent with the comprehensive plan—ensuring that land use regulation reflects deliberate, documented policy choices rather than arbitrary action. Jerome County's proposed Chapter 10 (Utilities) establishes the plan-level policy; Chapters 7 and 11 implement it through enforceable standards.

B. Constitutional Limits Are Not Barriers—They Are Guides

The constitutional framework governing land use regulation does not prohibit protective zoning. It ensures that regulation is **rational, proportionate, and connected to legitimate public purposes**. The proposed ordinances satisfy every constitutional requirement:

Rational Basis: The tiered classification system, setback requirements, noise limits, decommissioning bonds, and Class I/II soil prohibition are all rationally related to the protection of agricultural productivity, property values, groundwater resources, public health, and community character. Every standard is supported by cited evidence—USDA, NRCS, peer-reviewed research, and enacted legislation in other jurisdictions.

Nexus (Nollan v. California Coastal Commission, 483 U.S. 825, 1987): Every condition imposed on energy and data center development is directly related to a documented impact of that development—soil degradation, property value decline, noise, water consumption, grid strain, and agricultural conversion.

Rough Proportionality (Dolan v. City of Tigard, 512 U.S. 374, 1994): The 150% decommissioning bond, the escalating review requirements by tier, and the impact-specific standards are all calibrated to the scale and severity of the documented impacts. Tier 1 projects (≤50 kW) require only administrative permits. Tier 3 projects (>25 MW) require full environmental review because their impacts are proportionally greater.

No Taking Without Just Compensation (Penn Central, 438 U.S. 104, 1978): The ordinances do not prohibit all economically beneficial use of any property. They regulate the manner and conditions under which specific high-impact industrial uses may occur. A property owner who cannot build a 500-acre solar installation on Class I farmland retains every other use that land has supported for generations. Under Penn Central's three-factor test, this is not a taking.

C. State Legislative Alignment

The proposed ordinances are not only permitted by state law—they are **consistent with the direction Idaho's own legislature has established**:

SB 1133 (signed April 1, 2025): Amends the Idaho Agricultural Protection Area Act to prohibit solar and wind energy structures on APA-designated lands. The legislature has already determined that agricultural land warrants categorical protection from energy development.

HCR032 (adopted March 16, 2026): Declares that energy infrastructure harming agriculture, water resources, or rural communities is "inconsistent with state policy." Affirms that "private property rights, local land use authority, and the protection of agricultural and rural communities are paramount considerations." This resolution does not merely permit Jerome County's approach—it endorses it as consistent with the state's declared priorities.

II. The Ethical Foundation: Fairness, Justice, and the Duty of Protection

The legal case establishes what the county *may* do. The ethical case establishes what the county *ought* to do. These are separate inquiries. A law may be technically valid and still be unjust. Conversely, the absence of a law does not mean that harm is acceptable. The ethical principles that govern just community relations are not dependent on whether a legislature has codified them.

A. The Principle of Non-Harm (Sic Utere Tuo)

Sic utere tuo ut alienum non laedas—"Use your own property so as not to harm another's"—is among the oldest principles of justice in Western legal tradition. It predates the Constitution, predates the common law, and is recognized in every system of law that claims to be just. The principle establishes a simple ethical baseline: **no one has the right to use their property in a way that injures their neighbor**.

When a developer proposes a 500-acre solar installation or a 50-megawatt data center on agricultural land, and peer-reviewed research documents that neighboring properties will lose 4–6% of their value, that agricultural soils will suffer irreversible damage, that noise will exceed health-protective thresholds, and that the community's shared water resources will be diminished—the question is not whether the county may regulate. The question is whether the county may ethically decline to regulate. The principle of non-harm answers that question clearly: a government that permits known, documented harm to its citizens when it has the authority to prevent that harm has failed its most basic ethical obligation.

B. The Principle of Informed Consent

No person should be subjected to material risk without their knowledge and meaningful opportunity to participate in the decision. This principle is foundational to medical ethics, contract law, democratic governance, and environmental justice. It applies with equal force to land use decisions that permanently alter a community's character, economy, and resources.

Current notification requirements—typically 300 to 1,320 feet—were designed for residential subdivisions and small commercial buildings. They are **categorically inadequate** for industrial facilities whose impacts extend to property values (3+ miles, per PNAS 2025), utility rates (system-wide), groundwater (aquifer-wide), and agricultural markets (county-wide). A notification radius that excludes 95% of the people affected by a decision is not notification—it is concealment. The county-wide notification requirement in the proposed ordinance is not an administrative convenience. It is an ethical imperative: the people who will bear the consequences of a decision have a right to know about it and a right to be heard.

C. The Principle of Intergenerational Justice

Ethical obligations run not only to present residents but to future generations. Class I and Class II agricultural soils took 10,000 to 15,000 years to form through natural processes. Once destroyed by industrial construction—compaction, excavation, chemical contamination, drainage alteration—those soils cannot be recreated on any human timescale. The USDA NRCS has documented six categories of damage. Peer-reviewed studies confirm recovery timescales of 18–30 years to permanent.

The ethical question is stark: **does the present generation have the right to destroy in 30 years what took nature 15,000 years to create, in exchange for a 25-year lease payment?** The American Farmland Trust projects that 83% of utility-scale solar development will target agricultural land. If that projection holds, the cumulative loss to future generations of farmers, communities, and food production capacity is not merely regrettable—it is an intergenerational injustice that the present generation has the power and the obligation to prevent.

D. The Principle of Equal Protection of Rights

Every property owner in Jerome County has the same right to the quiet enjoyment, productive use, and market value of their land. When an industrial energy facility reduces the value of surrounding properties by 4–6% (PNAS 2025), the property rights of non-participating neighbors are being diminished to increase the economic return of the developer and the leasing landowner. No ethical system treats this as acceptable without the informed consent of those whose rights are being diminished.

The proposed General Welfare No-Balancing Rule for Tier 3 projects reflects this ethical principle: **you cannot offset the injury to one person's rights by pointing to the benefit another person receives**. This is not novel. It is the same principle that prevents a government from condemning one person's home to increase another person's tax revenue. It is the principle that prevents a corporation from polluting one community's water to reduce another community's electricity costs. Individual rights are not subject to utilitarian balancing.

III. The Moral Foundation: Natural Law and Ordered Liberty

The legal and ethical arguments above operate within the framework of positive law and reasoned moral philosophy. But the strongest foundation for community protection lies deeper—in the principles of natural law and ordered liberty that the American constitutional system was designed to embody, and which exist independent of any government's decision to recognize them.

A. Natural Law: Rights That Precede Government

Natural law theory—as articulated by Aristotle, Aquinas, Locke, Blackstone, and the American Founders—holds that certain rights and obligations exist by virtue of human nature and the moral order of the universe, not by virtue of legislative enactment. The Declaration of Independence declares these truths "self-evident": that all people "are endowed by their Creator with certain unalienable Rights" including "Life, Liberty, and the pursuit of Happiness." Government does not create these rights. Government exists to *secure* them.

> *"The end of law is not to abolish or restrain, but to preserve and enlarge freedom." — John Locke, Second Treatise of Government (1689)*

Under natural law, the right to property is not merely a legal construct—it is a **natural right** rooted in the human relationship to labor, sustenance, and stewardship. John Locke argued that property rights arise when a person mixes their labor with the natural world. The farmer who has invested generations of labor, capital, and stewardship in productive agricultural land holds a right to that property that is not contingent on a government's permission—it is inherent in the relationship between the person and the land.

But natural law also establishes limits. Locke's own theory includes the "sufficiency proviso"—one may acquire property only if "there is enough, and as good, left in common for others." This principle directly addresses the situation in Jerome County: a developer or landowner who converts irreplaceable farmland to industrial use has not merely exercised a right. They have diminished the common inheritance of the community and of future generations. Natural law does not support the claim that property rights include the right to destroy shared resources.

B. Ordered Liberty: Freedom Within a Framework of Mutual Obligation

Ordered liberty is the constitutional principle that freedom is not the absence of all restraint but the presence of a framework within which all persons can exercise their rights without destroying the rights of others. Justice Benjamin Cardozo described it as the recognition that liberty exists within "a scheme of ordered liberty" in which rights are balanced against responsibilities. Justice Felix Frankfurter elaborated: liberty is "freedom from arbitrary restraint—

not immunity from reasonable regulations and prohibitions imposed in the interests of the community."

> *"Liberty is not the right of one person to do whatever he wishes. It is the framework that enables all persons to live with dignity." — Adapted from Palko v. Connecticut, 302 U.S. 319 (1937)*

Ordered liberty is the precise principle that distinguishes just regulation from tyranny on one hand and lawlessness on the other. It recognizes three complementary truths:

First: Every person has the right to use their property productively and to pursue their economic interests. This right is real, meaningful, and constitutionally protected.

Second: That right does not include the power to harm others, diminish their property, contaminate their water, degrade their air quality, or destroy the shared resources on which the community depends. The right to swing your fist ends where your neighbor's nose begins.

Third: Government's role is to define and enforce the boundary between these two principles—ensuring that liberty is preserved for all, not merely for those with the economic power to impose their preferences on others.

The proposed ordinance package embodies ordered liberty. It does not ban energy development or data centers. It establishes a framework within which development can occur **without destroying the rights, property, resources, and character of the community**. Tier 1 projects proceed by administrative permit. Tier 2 and Tier 3 projects undergo progressively more rigorous review because their impacts are progressively greater. The framework is calibrated, proportionate, and designed to preserve liberty for all—not just for developers.

C. The Moral Obligation of Stewardship

The natural law tradition recognizes a moral obligation of stewardship—the duty to care for resources that sustain life, not merely for the present generation but for all who will follow. This obligation is recognized across religious traditions, philosophical systems, and indigenous wisdom. It is implicit in the American constitutional commitment to "secure the Blessings of Liberty to ourselves and our Posterity."

Jerome County's agricultural land is not merely an economic asset. It is a **trust held for future generations**. The Eastern Snake Plain Aquifer is not merely a water supply. It is a shared resource on which agriculture, communities, and ecosystems depend—already in deficit by 75,300 acre-feet (IDWR, 2025). The moral question is not whether the county has the legal authority to protect these resources. The moral question is whether the county can justify failing to protect them when the evidence of harm is documented, the authority exists, and the community has spoken.

IV. Synthesis: Why Legal, Ethical, and Moral Justifications Are Each Necessary

These three justifications—legal, ethical, and moral—are not redundant. They serve different functions and address different audiences:

The legal justification addresses the courts. It demonstrates that the proposed ordinances satisfy every requirement of constitutional law, Idaho statute, and administrative procedure. If challenged, the ordinances will survive judicial review because they are rational, proportionate, well-documented, and consistent with the comprehensive plan.

The ethical justification addresses the Board of County Commissioners and the public. It demonstrates that the proposed ordinances are not merely technically legal but are affirmatively just—that they reflect principles of fairness, informed consent, intergenerational responsibility, and equal protection that any reasonable person would recognize as sound. A decision-maker who votes to protect the community is not being "heavy-handed." They are fulfilling their duty to govern justly.

The moral justification addresses the conscience of the community. It grounds the ordinance package in principles that transcend politics, economics, and legal technicality. Natural law and ordered liberty are not abstractions—they are the foundations on which the American system of government was built. They establish that the right to protect one's community, one's land, one's water, and one's children's future is not granted by any legislature. It is inherent in our nature as human beings and in the moral obligations we owe to one another.

The Community Has Spoken

The JTown Beacon Community Survey (March 2026, 65 respondents) provides the democratic confirmation of these principles. When 93.7% of respondents oppose large-scale energy in agricultural zones, 92.3% are concerned about BESS safety, 90.8% demand county-wide notification, 87.7% say farmland protection should take priority over energy development, and 80% say the current regulatory approach needs significant revision—the community is not merely expressing a preference. It is exercising the fundamental democratic right to determine how its shared resources will be governed. The proposed ordinance package gives legal form to the community's moral judgment. To reject it would require the Board to conclude that the community is wrong about its own values, its own priorities, and its own future. The legal, ethical, and moral evidence permits no such conclusion.

DOCUMENT REVISION HISTORY

Position Document: Legal, Ethical & Moral Justification

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v5	Mar 22, 2026	Initial creation: Legal foundation (positive law, constitutional authority), ethical foundation (non-harm, consent, intergenerational justice), moral foundation (natural law, ordered liberty, stewardship)	J. Pierson
v6	Mar 23, 2026	Added IdahoEnergy logo to footer; package expanded from 14 to 17 documents	J. Pierson

REVIEW NOTES

JEROME COUNTY ENERGY ORDINANCE REFORM

The Unnecessary Data Center Boom: How Speculative Infrastructure Is Creating a National Crisis

Jeff Pierson | Confidential Solutions LLC | 713 East Ave C, Jerome, Idaho | March 2026

This position paper documents how the data center construction boom of 2024–2026 has become an infrastructure crisis driven by speculative capital, inflated demand projections, and the systematic externalization of costs onto rural communities, ratepayers, and agricultural resources. The evidence—drawn from Goldman Sachs, Yale University, Sightline Climate, the Brookings Institution, EPRI, and industry tracking data—demonstrates that the current pace of data center construction is **neither necessary nor sustainable**, and that the communities being asked to absorb these facilities bear the costs while receiving few of the benefits.

I. The Scale of the Boom: Investment Untethered from Demand

The numbers are staggering. Alphabet, Microsoft, Meta, and Amazon are projected to spend **$700 billion on AI infrastructure buildouts in 2026 alone**—exceeding the entire GDP of countries like Sweden or Poland. AI-related capital expenditure has surpassed U.S. consumer spending as the primary driver of GDP growth, contributing 1.1% in the first half of 2025. Globally, $193 billion was directed to AI startups in 2025, a new record, with over 50% of global venture capital dollars chasing the AI sector.

> *Goldman Sachs, "Why AI Companies May Invest More than $500 Billion in 2026," 2026; IEEE ComSoc Technology Blog, "AI Spending Boom Accelerates," November 2025.*

Sightline Climate is tracking **190 GW across 777 large data centers and AI factories** (>50 MW each) announced since 2024. At least 16 GW of capacity is planned for 2026 globally—nearly triple the levels built the previous year. But **30–50% of the 2026 pipeline is unlikely to come online before the end of the year**, and up to 11 GW shows no signs of construction. With typical build times of 12–18 months, that capacity can only materialize with dramatic acceleration that the evidence does not support.

> *Sightline Climate, "Data Center Outlook: Half of 2026 Pipeline May Not Materialize," 2026.*

The question that industry boosters refuse to answer is simple: **who needs all of this capacity?** An MIT study found that 95% of companies achieved zero return on their generative AI investments despite $30–40 billion in spending. McKinsey research confirms that most enterprise AI projects struggle to move beyond pilot phases to production deployment at scale. The most commonly reported AI revenue gains are in marketing and sales—specifically, optimizing advertising and customer acquisition. The infrastructure being built to support these applications is wildly disproportionate to their actual economic value.

Yale School of Management, "This Is How the AI Bubble Bursts," 2025; McKinsey & Company, Enterprise AI Deployment Analysis, 2025.

II. The Bubble Dynamics: Classic Signs of Speculative Overbuilding

The current data center boom exhibits every characteristic of a speculative bubble—and the people sounding the alarm are not activists or academics. They are the industry's own leaders.

A. Industry Leaders Acknowledge the Risk

Goldman Sachs CEO David Solomon: "I expect there to be a lot of capital that was deployed that doesn't deliver returns."

Amazon founder Jeff Bezos: Called the current environment "kind of an industrial bubble."

OpenAI CEO Sam Altman: Warned that "people will overinvest and lose money" during this phase.

40% of CEOs surveyed believe a correction is imminent.

> *Goldman Sachs analysis, December 2025; NPR, "Here's why concerns about an AI bubble are bigger than ever," November 2025; Yale Insights, 2025.*

B. The Six Defining Traits of the Data Center Bubble

As documented in *The AI/Data Center Bubble* (JTown Beacon, November 2025), the boom exhibits six classic bubble characteristics:

1. Overbuilding exceeding actual demand: Finished facilities in Santa Clara, California sit dark with nearly 100 MW of capacity unable to energize until grid upgrades are completed. 30–50% of the 2026 pipeline may not materialize.

2. Speculative capital untethered from proven returns: 95% of companies see zero ROI on generative AI investments. Hyperscaler capital expenditure now consumes approximately 60% of operating cash flow. OpenAI committed $300 billion in computing power with Oracle while generating only $13 billion in projected 2025 revenue.

3. Resource extraction framed as innovation: Data centers consume up to 5 million gallons of water per day (S&P Global), draw 41 GW of power nationally (150% increase in five years), and generate noise, heat, and electromagnetic interference—but industry marketing characterizes opposition as "anti-technology."

4. Techno-utopian marketing shielding scrutiny: Google's water consumption data in The Dalles, Oregon became public only after a 13-month legal fight. 80% of Virginia municipalities had non-disclosure agreements with data center developers limiting public access to consumption data (Bluefield Research).

5. Hollow applications dominating: The primary near-term AI use cases are advertising optimization, surveillance, and behavioral monetization—not the transformative applications

used to justify the infrastructure investment. 78% of ChatGPT conversations focus on everyday tasks like seeking information and editing text.

6. Risk of stranded assets and facility consolidation: NVIDIA's product roadmap (Ampere 2020, Hopper 2022, Blackwell 2024, Rubin 2026) indicates rapid hardware obsolescence. Retrofitting air-cooled facilities for liquid cooling costs 7–10% more than building new, putting existing capacity at risk of becoming stranded assets.

Jeff A. Pierson, "The AI/Data Center Bubble," JTown Beacon, November 22, 2025; Goldman Sachs, December 2025; Sightline Climate, 2026.

III. Who Pays the Price: The Externalization of Costs to Rural Communities

The defining feature of the data center boom is not its scale but its structure: the benefits accrue to a handful of trillion-dollar technology companies, while the costs are systematically externalized to communities, ratepayers, agricultural producers, and the environment.

A. Electricity Rates and the Ratepayer Burden

Goldman Sachs analysis (February 2026) documented that **middle-class Americans are paying for the data center and AI boom through higher electric bills and food costs**. Electricity prices surged nearly 7% through December 2025—far exceeding the 2.9% headline inflation rate. Utilities requested a record $31 billion in rate increases in 2025, more than double 2024's requests. Goldman projects consumer electricity inflation of 6% from 2026 to 2027, with a 0.2% drag on consumer spending growth and a 0.1% drag on GDP.

> *Fortune, "Middle-class Americans are paying for the data center and AI boom with higher electric bills and even food costs, Goldman Sachs warns," February 13, 2026.*

The impacts are worse in rural areas. In South Carolina, data centers will account for **65–70% of all new energy usage in the state**. In Virginia, electricity rates rose 267% over five years. In PJM's capacity market, data centers accounted for an estimated $9.3 billion price increase in the 2025–26 auction, adding $16–18/month to residential bills in Ohio and Maryland.

> *MediaJustice study, 2025; Virginia SCC filings; PJM Interconnection, 2025–26 Base Residual Auction Results.*

The Electric Power Research Institute (EPRI) projects that data centers could account for **9–17% of total U.S. electricity consumption by 2030**, up from 4.4% today. A Yale Clean Energy Forum report estimates data centers could consume as much as 12% of total U.S. power by 2028—higher than all manufacturing of steel, aluminum, and other high-intensity goods combined.

> *EPRI, 2025–2026 projections; Yale Clean Energy Forum, 2025.*

B. Water Consumption and Agricultural Competition

Large data centers consume up to 5 million gallons per day (S&P Global, 2025). Nationally, data centers consumed 66 billion liters of water in 2023, with projections reaching 150–300 billion liters annually by 2028. In rural communities, a single data center can become the largest water consumer overnight (Brookings Institution, 2025). For Jerome County, where the Eastern Snake Plain Aquifer is already in deficit by 75,300 acre-feet (IDWR, 2025), any significant new industrial water demand threatens the agricultural economy that sustains the community.

C. Jobs and Economic Reality

The jobs promise of data centers is among the most systematically overstated claims in the industry. A 12 MW facility typically employs approximately **20 full-time workers**. A 40–100 MW facility often employs only a few dozen permanent staff. The public cost per permanent job routinely exceeds $1–2 million in incentives, and in Ohio, multiple deals have crossed the $2 million per job threshold. At least 36 of 50 states now offer tax exemptions or abatements to attract data centers—creating a race to the bottom in which communities compete to give away the most for the least return.

> *Jeff A. Pierson, "The AI/Data Center Bubble," JTown Beacon, November 2025; Ohio state incentive records.*

D. Community Opposition: A National Movement

The backlash is not anecdotal. It is documented, quantified, and accelerating. Data Center Watch reports that **in Q2 2025 alone, data center opponents slowed or thwarted projects totaling approximately $100 billion**—more than the total of every quarter since 2023. Across the country, $64 billion in data center projects have been blocked or delayed by community opposition since mid-2024. At least 188 organized opposition groups span 40 states, and lawmakers in 14+ states have enacted or proposed moratoriums.

> *Data Center Watch, 2025–2026 opposition tracker; The American Prospect, "Demands for Data Center Moratoriums Surge," December 2025.*

IV. The Stranded Asset Risk: What Happens When the Bubble Deflates

Every infrastructure bubble creates stranded assets. The 1990s telecom bubble left thousands of miles of dark fiber. The 2008 housing crisis left millions of foreclosed homes. The data center bubble is building its own legacy of stranded infrastructure, and the communities that hosted these facilities will bear the consequences.

Yale School of Management identifies three mechanisms through which the AI bubble could burst: **concentration leading to contagion** (a small group of companies dominates AI investment, and failure of any major player triggers cascading defaults), **governance failures exposing shortcomings** (AI operates with minimal regulatory oversight, and a compromised major model could trigger moratoriums), and **disruptive substitutions rendering infrastructure obsolete** (breakthroughs in quantum computing or semiconductor design could immediately devalue hundreds of billions in current data center infrastructure).

Yale School of Management, "This Is How the AI Bubble Bursts," 2025.

The financial exposure is enormous. Roughly **$200 billion in data center debt was raised in 2025 alone**. By 2028, the market could exceed $1 trillion, with as much as $750 billion coming from private credit. Utilities spent $178 billion on grid upgrades last year and are forecasting $1.1 trillion in capital investments through 2029—investments that could become stranded assets if demand projections prove inflated.

Bank of America credit analysis, 2025; Wisconsin Watch, utility stranded asset reporting, 2025.

When data center facilities are abandoned, consolidated, or mothballed, the communities that hosted them are left with permanently converted agricultural land, degraded water resources, overburdened electrical infrastructure, and a depleted tax base. The 20 permanent jobs are gone. The tax abatements have already been collected. The aquifer has been drawn down. The farmland has been paved. And the recovery—if it comes at all—takes decades.

V. Why This Matters for Jerome County

Jerome County is precisely the kind of community that data center developers target: abundant land, available water (or so they assume), lower land costs, willing political environments, and a population unfamiliar with the industry's track record. The proposed ordinance package is not anti-technology. It is pro-community.

The ordinances protect Jerome County from becoming a host for speculative infrastructure that may never fulfill its promises. The tiered classification system ensures that projects are reviewed proportionate to their impacts. The Class I/II soil prohibition ensures

that irreplaceable farmland is not sacrificed for facilities that may become stranded assets within a decade. The decommissioning bond ensures that the community is not left holding the financial bag when a data center operator moves on. The county-wide notification requirement ensures that every resident whose water, electricity rates, property values, and agricultural economy may be affected has the opportunity to be heard.

Idaho House Concurrent Resolution 32 (HCR032, adopted March 16, 2026) aligns state policy with this approach, declaring that energy infrastructure that "materially harms agriculture, critical water resources, or rural communities" is "inconsistent with state policy." The proposed ordinances do not prevent responsible, appropriately-sited development. They prevent the kind of **speculative, community-destructive, resource-extractive development** that the national evidence documents is the norm—not the exception—in the current data center boom.

As Goldman Sachs, Yale, Sightline Climate, and the industry's own leaders have acknowledged: this boom is built on assumptions that may not materialize. Jerome County's 65 survey respondents understood this instinctively. 93.7% oppose large-scale energy in agricultural zones. 92.3% are concerned about BESS safety. 87.7% say farmland protection should take priority. 80% say the current approach needs significant revision. The community is not wrong. The evidence confirms they are right.

Prepared by Jeff Pierson, Confidential Solutions LLC | 713 East Ave C, Jerome, Idaho | March 2026

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Position Paper: The Data Center Crisis

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v5	Mar 22, 2026	Initial creation: Scale of boom ($700B), bubble dynamics, cost externalization, stranded asset risk, Jerome County implications	J. Pierson
v6	Mar 23, 2026	Added IdahoEnergy logo to footer; package expanded from 14 to 17 documents	J. Pierson

REVIEW NOTES

JEROME COUNTY ENERGY ORDINANCE REFORM

Supplement: Water Resources, Utility Rate Impacts, and Infrastructure Vulnerability

Jeff Pierson | Confidential Solutions LLC | 713 East Ave C, Jerome, Idaho | March 2026

This supplement to the Jerome County Energy Ordinance Reform package documents the water resource, utility rate, and infrastructure vulnerability concerns that support the county's restrictive posture toward large-scale energy facilities and data center developments. The evidence presented here draws on federal agency data, state regulatory actions, peer-reviewed research, and investigative reporting to demonstrate that these concerns are not speculative—they are documented, measurable, and accelerating nationwide.

I. Idaho's Water Crisis: The Eastern Snake Plain Aquifer

Jerome County sits atop the **Eastern Snake Plain Aquifer (ESPA)**—one of the most contested groundwater systems in the American West. The county's $639 million agricultural economy depends entirely on this aquifer and the surface water systems it feeds. Any additional large-scale water demand—whether from data center cooling or energy facility construction and maintenance—directly competes with the agricultural water rights that sustain the county's economic base.

A. The 2024–2025 Curtailment Crisis

In 2024, the Idaho Department of Water Resources (IDWR) identified a **74,000 acre-foot shortfall** in the ESPA—triggering the most aggressive curtailment order in Idaho history. By July 2025, the shortfall had grown to **75,300 acre-feet**, with IDWR ordering curtailment of all junior groundwater rights with priority dates after October 11, 1900—the **earliest cutoff date ever established** under the Methodology Order.

> *IDWR, Director's Shortfall Determination (July 10, 2025); Capital Press, "Eastern Snake water rights impacts increase" (July 11, 2025).*

Under the 2024 Water Settlement, groundwater districts committed to delivering **75,000 acre-feet of water annually** to the Surface Water Coalition to avoid curtailment. This mitigation obligation represents water that must be conserved, recharged, or otherwise made available—leaving zero margin for new large-scale industrial water demands.

B. What This Means for Jerome County

Jerome County's agricultural water users are already operating under curtailment pressure. The addition of a single hyperscale data center consuming 100,000+ gallons per day—the threshold

that triggers regulation under Chapter 11—would be the equivalent of adding a small municipality's water demand to an aquifer system already in deficit. Multiple data centers would compound this pressure exponentially.

The ESPA Area of Common Ground Water Supply boundaries were updated by **Senate Bill 1341 (2024 Legislative Session)**, effective July 1, 2024, reflecting the state's recognition that groundwater management in this region requires tighter regulatory controls—not additional industrial demand.

II. Data Center Water Consumption: Scale and Consequences

Large data centers are among the most water-intensive industrial facilities in operation. A single hyperscale data center can consume **up to 5 million gallons of water per day**—equivalent to the water use of a town of 10,000 to 50,000 people. Nationally, data centers consumed approximately **66 billion liters of water directly in 2023**, and projections reach **150–300 billion liters annually by 2028**.

> *S&P Global, "Beneath the Surface: Water Stress in Data Centers" (2025); Apstech Advisors, "Data Center Water Consumption in the US" (2025).*

A. Rural Communities Bear Disproportionate Impacts

The Brookings Institution documented that in rural communities, a single data center can become the **largest water consumer overnight**, overwhelming local water systems designed for agricultural and residential use. Local communities face lower water tables, depleted wells, competition for municipal water supplies, and reduced stream flows affecting agricultural operations and wetland ecosystems.

> *Brookings Institution, "The Local Implications of Data Centers for Rural Communities in the US" (2025).*

In rural Georgia, communities near Meta's data centers report contaminated or depleted water supplies. In Delaware, a single proposed data center would consume **10 to 20 million gallons of water annually**. In Texas, data center water consumption is projected to grow from 49 billion gallons in 2025 to **399 billion gallons by 2030**—an eightfold increase in five years.

> *The Current (Georgia), "Data centers consume massive amounts of water" (August 2025); Texas Observer, "The Texas AI Boom Is Outpacing Water Regulations" (2025); WHYY, "Proposed Delaware City data center" (2025).*

B. Secrecy and Lack of Transparency

A critical concern is the industry's resistance to transparency. Bluefield Research found that data center operators routinely refuse to disclose water consumption data. A review of 31 Virginia municipalities found that **25 (80%) had non-disclosure agreements (NDAs)** with data center developers that limit public access to information about project scale, resource needs,

and potential impacts. In October 2025, California Governor Newsom vetoed legislation that would have required data center operators to share water consumption reports with local water suppliers.

> *Bluefield Research, "Data Center Water Secrecy Hurts Communities" (2025); CalMatters, "Big Tech blocks California data center rules" (December 2025); Yale Clean Energy Forum, "Regulating the Digital Giants" (November 2025).*

This pattern of secrecy makes the notification and transparency requirements in the Jerome County ordinance package—including county-wide notification, full public application materials, and mandatory water impact assessments—not merely desirable but essential. The community survey confirms this: **90.8% of respondents support county-wide notification** for all proposed energy and data center projects (JTown Beacon Community Survey, March 2026).

III. Utility Rate Impacts: The Hidden Tax

The utility rate impact of large-scale energy and data center development is the least visible but most broadly distributed cost imposed on host communities. It affects **every ratepayer in the service territory**—not just adjacent landowners.

A. National Rate Increase Crisis

In the first half of 2025, utilities requested or secured **$29 billion in rate increases**—more than double the prior year. Average residential electricity rates have risen **37% nationally since 2020**. In areas with significant data center activity, the increases are far more severe: Virginia residents have experienced electricity price increases of **up to 267% over five years**.

> *S&P Global Market Intelligence, Regulatory Research Associates (2025); Fortune, "Your utility bills keep going up" (March 2026); Virginia SCC filings.*

B. Data Centers as the Primary Driver

In 2007, data centers consumed 1.5% of U.S. electricity. By 2030, that figure is projected to exceed 12%. A 2024 Department of Energy report estimated that data center load growth has tripled over the past decade and will double or triple again by 2028. Data center demand drove an estimated **$9.3 billion increase in PJM capacity market prices** in the 2025–26 auction alone, with average residential bills expected to rise $18/month in western Maryland and $16/month in Ohio.

> *DOE, Data Center Energy Use Report (2024); PJM Interconnection, 2025–26 Base Residual Auction; EESI, "Data Center Power Demands Are Contributing to Higher Energy Bills" (2025).*

C. State Legislative Response

The scale of the problem has triggered a national legislative response. An April 2025 analysis by the National Caucus of Environmental Legislators identified **over 60 pieces of legislation**

related to data center development introduced across 22 states—most focused on ratepayer protection. Notable actions include:

Delaware: Legislation to charge data centers higher utility rates advanced out of committee.

Florida: State Senate committee approved a bill creating new rate structures for data centers.

Oklahoma: A Republican state senator proposed a moratorium on new data centers until late 2029.

Pennsylvania: Electric utility agreed to data center ratepayer protections.

Federal: Senators Whitehouse and Fetterman introduced the Clean Cloud Act of 2025, amending the Clean Air Act to set emissions standards for data center equipment and require energy consumption data collection.

Stateline, "With electricity bills rising, some states consider new data center laws" (February 2026); Latitude Media, "State lawmakers stand between ratepayers and data center costs" (2025); Georgetown Environmental Law Review, "Consumers End Up Paying" (2025).

D. Implications for Jerome County

Jerome County's rural households spend proportionally more of their income on energy than urban households. Utility rate increases driven by data center demand or energy infrastructure buildout represent a regressive tax on the community that hosts the infrastructure—imposed without a vote, without compensation, and without the community's informed consent. This is precisely why the ordinance package requires county-wide notification, full cost internalization by developers, and the General Welfare No-Balancing Rule for Tier 3 projects: the costs are systemic and county-wide, and the community must have the opportunity to evaluate them before they are imposed.

IV. Why This Supplement Matters for the Board's Decision

The water resource and utility rate evidence documented in this supplement strengthens the case for the regulatory framework proposed in the ordinance package in four specific ways:

First, it demonstrates that the ESPA groundwater crisis is real, documented, and ongoing. Jerome County's agricultural water users are already under curtailment pressure. Adding industrial-scale water demand from data centers is not a theoretical risk—it is a direct competition for a resource that is already in deficit.

Second, it documents the national pattern of utility rate increases driven by data center development. Jerome County residents will bear these costs regardless of whether the development occurs in the county, but permitting data centers locally without impact mitigation will accelerate and concentrate the rate impact on county ratepayers.

Third, it establishes that the national and state legislative trend is toward stronger regulation, not weaker. Twenty-two states have introduced data center regulation legislation. Idaho's own legislative actions—SB 1133 (prohibiting solar/wind on APA lands), SB 1341 (tightening ESPA boundaries), and **HCR032 (2026)** (declaring that energy infrastructure that harms agriculture, water resources, or rural communities is inconsistent with state policy and affirming that "private property rights, local land use authority, and the protection of agricultural and rural communities are paramount considerations")—confirm this direction. Jerome County's proposed ordinances are consistent with both the emerging national consensus and the Idaho Legislature's own declared findings.

Fourth, it validates the community notification standard. When 90.8% of survey respondents support county-wide notification, and the evidence shows that data center developers routinely use NDAs to prevent public disclosure of resource impacts, the case for maximum transparency is overwhelming.

Prepared by Jeff Pierson, Confidential Solutions LLC | 713 East Ave C, Jerome, Idaho | March 2026

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Supplement: Water Resources & Utility Rate Impacts

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REVIEW NOTES

JEROME COUNTY ENERGY ORDINANCE REFORM

Supplement: Community Survey Evidence and National Public Opinion Context

Jeff Pierson | Confidential Solutions LLC | 713 East Ave C, Jerome, Idaho | March 2026

This supplement documents the community survey evidence underlying the Jerome County Energy Ordinance Reform package and places those findings in the context of national public opinion on energy development, data centers, and rural community protection. The local survey results demonstrate that the proposed regulatory framework reflects documented community consensus. The national evidence demonstrates that Jerome County's concerns are not unique—they are part of a nationwide pattern of rural communities demanding stronger protections from the impacts of large-scale energy and data center development.

I. JTown Beacon Community Survey — Jerome County (March 2026)

The JTown Beacon Community Survey was conducted in March 2026 with **65 respondents** from Jerome County. The survey measured community positions on ten questions spanning agricultural preservation, energy development siting, BESS safety, regulatory adequacy, notification requirements, decommissioning, economic priorities, and overall policy direction. All 65 respondents answered all 10 questions (0% unanswered). The results are striking in their consistency and magnitude.

Complete Survey Results

Q1 — Land Use Priorities: 70.4% rate agricultural land preservation as "Extremely Important," 9.9% "Very Important," 7.7% "Important," 5.6% "Moderately Important." Combined: 93.8% rate preservation as important or higher. Only 6.2% rated it as "Slightly" or "Not Important."

Q2 — Location of Large-Scale Facilities: Mixed results on restricting large-scale facilities to Heavy Industrial (IH) zoning. 32.6% Strongly Support + 9.3% Support = 41.9% support IH-only restriction. 38.8% Strongly Oppose + 12.4% Oppose = 51.2% oppose IH-only restriction. This is the only question where results did not show a strong majority—reflecting the tiered approach adopted in the ordinance, which does not categorically limit to IH but imposes escalating standards based on scale and impact.

Q3 — Energy Development in Agricultural Zones: 93.7% said NO to allowing large-scale energy development in agricultural zones (59 of 65 respondents). 7.7% said Yes (5 respondents). 1.5% Unsure (1 respondent). This is the most decisive result in the survey and provides the strongest possible mandate for the Class I/II soil prohibition.

Q4 — Small-Scale & On-Site Energy Systems: 49.2% support allowing small-scale/on-site renewable energy in agricultural zones (6.2% Strongly Support, 43.1% Support). 21.5% Neutral. 29.2% oppose (9.2% Oppose, 20% Strongly Oppose). Average rating: Neutral. This result supports the Tier 1 administrative permit pathway—the community is open to small-scale, on-site systems while opposing large-scale commercial development.

Q5 — Battery Energy Storage Systems (BESS): 83.1% Very Concerned + 9.2% Somewhat Concerned = 92.3% concerned about BESS safety risks. Only 6.2% not concerned. Average rating: Very Concerned. This overwhelming concern supports the BESS prohibition in agricultural zones.

Q6 — Required Studies & Protections: 80% say current guidelines for noise, glare, traffic, stormwater, and emergency response are “Not strict enough” (52 of 65). 9.2% say “Appropriate.” 4.6% say “More than sufficient.” 6.2% Unsure. This 80% finding directly contradicts the P&Z Commission’s characterization of the proposed standards as “heavy-handed.”

Q7 — Notification & Public Input Radius: 90.8% say YES, all Jerome County residents should be notified when a large-scale energy facility or AI data center is proposed (59 of 65). Only 9.2% said No. This provides direct democratic support for the county-wide / 25-mile notification standard.

Q8 — Decommissioning & Reclamation: 90.8% rate financial assurance for facility removal and land restoration as “Extremely Important” (59 of 65). 4.6% “Moderately Important.” 1.5% “Slightly Important.” 3.1% “Not Important.” This provides direct support for the 150% decommissioning bond/trust fund requirements.

Q9 — Economic Considerations: 87.7% say energy development should be limited to protect farmland and rural character (57 of 65). Only 4.6% say energy development should be expanded at the expense of agricultural land (3 respondents). 7.7% Unsure. This decisively resolves the economic balancing question in favor of agricultural protection.

Q10 — Overall Position: 80% say the current approach to energy development “needs significant revision” (52 of 65). Only 4.6% say it is “well balanced.” 15.4% Unsure. This provides the clearest possible mandate for the comprehensive regulatory reform proposed in the ordinance package.

Summary: The Community Mandate

Across all ten questions, the community’s position is consistent, emphatic, and directional. On every substantive question—agricultural preservation (93.8%), opposition to large-scale energy in ag zones (93.7%), BESS safety concerns (92.3%), notification expansion (90.8%), decommissioning requirements (90.8%), economic protection of farmland (87.7%), regulatory strengthening (80%), and overall revision (80%)—the results exceed the threshold of what any reasonable decision-maker would recognize as community consensus. The proposed ordinance

package does not impose an outsider's framework on Jerome County. It implements the documented will of the community.

II. National Public Opinion on Energy Development in Rural Communities

Jerome County's survey results are not anomalous. They reflect a national pattern of increasing rural opposition to large-scale energy and data center development that has accelerated dramatically since 2023.

A. Solar and Wind Farm Opposition

Pew Research Center (June 2024) found that while approximately 6 in 10 Americans overall support wind and solar development in their communities, rural communities show notably different attitudes. **About half of rural residents say a solar panel farm would make their landscape ugly**, compared to 37% of urban residents. Only 35% of rural residents believe a local solar farm would lower their electricity prices, compared to 51% of urban residents.

> *Pew Research Center, "Americans' Views on Local Wind and Solar Power Development," June 27, 2024.*

National support for solar and wind has declined significantly. Fewer than half of U.S. adults (44%) now support expanding offshore wind farms, **down from 59% in 2022**. About half favor expanding solar panel farms, **down from approximately two-thirds in 2022**.

> *AP-NORC Poll, "Support for solar energy and offshore wind falls," June 2025.*

In 2024 alone, **117 renewable energy projects were rejected nationwide**—including 39 wind projects and 78 solar projects. The pattern of rejection concentrates heavily in rural agricultural communities, precisely the areas where Jerome County's survey shows the strongest opposition.

> *Just The News, "Rural communities fought wind and solar developments in 2024," 2024.*

B. Data Center Opposition: A National Movement

The opposition to data center development in rural communities has reached a scale that the industry itself now recognizes as a material financial risk. According to Data Center Watch, **$64 billion in data center projects have been blocked or delayed by community opposition** since mid-2024. Cancellations accelerated from 2 projects in 2023 to **25 in 2025**.

> *Data Center Watch, "$64 billion of data center projects blocked or delayed amid local opposition," 2025–2026 tracking report.*

At least **188 organized opposition groups span 40 states**. Lawmakers in **14+ states have enacted or proposed moratoriums** on data center development. Opposition cuts across political lines: Republican officials raise concerns about tax incentives and grid strain; Democrats focus on environmental impacts and resource consumption. **Water use is the**

primary concern, mentioned in more than 40% of contested projects. Energy consumption and electricity rate increases rank second, followed by noise pollution.

Data Center Watch opposition tracker; TechPolicy.Press, "The Real Race for an AI Moratorium: Stopping Data Centers," 2025.

C. State and Federal Moratorium Actions

The moratorium movement has expanded from isolated local actions to coordinated state-level policy:

Maine (February 2026): Legislature considering moratorium on data centers above 20 MW until July 2028.

Oklahoma (2025): Republican state senator proposed moratorium on new data centers until late 2029.

Ohio (2025–2026): Multiple local moratoriums (Lordstown, Washington Township) amid packed public meetings and referendum threats.

Federal (2025): 230+ environmental and public-interest groups asked Congress to halt approvals for new data centers until federal rules address energy use, water needs, local impacts, and emissions.

Daily Yonder / Maine Morning Star, "As Data Centers Look to Rural New England, Maine Considers a Moratorium," February 23, 2026; Signal Ohio, "Ohio's data center boom is running into political resistance," 2025; Carbon Credits, "Environmental Groups Urge U.S. Congress to Pause Data Center Growth," 2025.

D. What the National Evidence Tells Us

Jerome County's survey results are not an outlier. They are consistent with the documented national pattern:

Rural communities oppose large-scale energy in agricultural areas at rates far exceeding urban populations. Jerome County's 93.7% opposition to large-scale energy in ag zones is consistent with the national rural pattern of rejection.

Data center opposition is accelerating, with $64 billion in projects blocked or delayed. Jerome County's inclusion of data center provisions in its ordinance is forward-looking policy that addresses a documented and growing threat.

The legislative trend is toward restriction. Idaho's own SB 1133, SB 1341, and HCR032 (2026) all point toward stronger protections. 22 states have introduced data center regulation. 14+ states have enacted or proposed moratoriums. Jerome County's ordinance package is consistent with this direction.

Community notification and transparency are universal demands. The industry's use of NDAs in 80% of Virginia municipalities, and the California governor's veto of water

disclosure requirements, have only intensified public demand for transparency. Jerome County's county-wide notification requirement addresses this directly.

Prepared by Jeff Pierson, Confidential Solutions LLC | 713 East Ave C, Jerome, Idaho | March 2026

DOCUMENT REVISION HISTORY

Supplement: Community Survey Evidence & National Public Opinion

Version	Date	Changes / Updates	Reviewed By
v5	Mar 22, 2026	Initial creation: Complete survey results (10 questions), national public opinion context (Pew, AP-NORC, Data Center Watch, moratorium movement)	J. Pierson
v6	Mar 23, 2026	Added IdahoEnergy logo to footer; package expanded from 14 to 17 documents	J. Pierson

REVIEW NOTES

JEROME COUNTY ENERGY ORDINANCE REFORM

Glossary of Definitions and Key Terms

Jeff Pierson | Confidential Solutions LLC | 713 East Ave C, Jerome, Idaho | March 2026

A. Land Use and Zoning Definitions

Conditional Use: A use that is permitted within a zoning district only upon a finding that the use, as conditioned, is compatible with surrounding uses, consistent with the Comprehensive Plan, and meets all applicable standards of the Jerome County Zoning Ordinance. Distinguished from a permitted use (allowed by right) and a prohibited use (not allowed under any circumstances).

Conditional Use Permit (CUP): A discretionary land use approval granted by the decision-making body (P&Z Commission or Board of County Commissioners) authorizing a conditional use, subject to specific conditions of approval. A CUP may be denied, approved, or approved with conditions. Denial of a CUP does not constitute a taking of property.

Comprehensive Plan: The long-range policy document adopted by the Board of County Commissioners under the Idaho Local Land Use Planning Act (LLUPA, Idaho Code §67-6508). All zoning ordinances must be consistent with the Comprehensive Plan. Chapter 10 (Utilities) is the relevant chapter for energy facility policy.

Zoning Ordinance: The body of enforceable legal regulations implementing the Comprehensive Plan. The Jerome County Zoning Ordinance (JCZO) includes Chapter 7 (Conditional Use) and Chapter 11 (Energy Facilities and Data Centers).

Variance: A limited departure from the strict application of a zoning standard, granted only upon a showing of undue hardship. A variance may not be used to override the Class I/II soil prohibition or other categorical protections.

Non-Participating Parcel: Any parcel of real property that is not part of the project footprint and whose owner has not entered into a signed agreement with the applicant consenting to the project's impacts. Non-participating parcel owners are the primary beneficiaries of the protective standards in this ordinance package.

General Welfare: The collective physical, economic, social, and environmental well-being of Jerome County residents, property owners, and the broader community. Includes preservation of prime agricultural land, protection of property values, maintenance of community character, safeguarding of water resources, and protection of public health and safety.

Community Character: The predominant visual, social, economic, and cultural qualities of the surrounding area as experienced by residents, landowners, and visitors, including the rural and

agricultural landscape, open space, working farms, and the absence of utility-scale industrial facilities.

Property Value Diminishment: Any documented or objectively demonstrated projected decrease in the market value, assessed value, or functional use value of any non-participating parcel caused by the proximity, presence, or operations of a proposed use. Under this ordinance package, property value diminishment is an independently sufficient ground for CUP denial.

B. Energy Facility Classifications

Energy Facility: Any facility designed, constructed, or operated for the purpose of generating, storing, converting, or transmitting electrical energy, including solar photovoltaic systems, wind energy conversion systems, battery energy storage systems (BESS), substations, and associated transmission infrastructure.

Tier 1 Energy Facility: Small-scale, on-site energy systems: ≤50 kW nameplate capacity, ≤2 acres total footprint. Permitted through administrative review. Designed for residential, agricultural, or small commercial self-consumption.

Tier 2 Energy Facility: Medium-scale commercial energy systems: 51 kW–25 MW nameplate capacity, 2–160 acres. Requires a Conditional Use Permit with standard review. Subject to all impact standards in Chapter 11, county-wide or 25-mile notification, and decommissioning bond at 150% of removal cost.

Tier 3 Energy Facility: Large-scale commercial energy systems: >25 MW nameplate capacity or >160 acres. Requires full environmental impact assessment, two mandatory public hearings, county-wide or 25-mile notification, Board majority vote, decommissioning trust fund at 150% of removal cost, and the General Welfare No-Balancing Rule.

Data Center Facility: A facility housing computing, networking, and data storage infrastructure with an aggregate electrical load of ≥1 MW or water consumption of ≥100,000 gallons per day. Subject to the same tiered classification, impact standards, notification requirements, and decommissioning provisions as energy generation facilities under Chapter 11.

Battery Energy Storage System (BESS): A system designed to store electrical energy for later discharge. Includes lithium-ion, flow battery, and other electrochemical storage technologies, together with associated inverters, transformers, cooling systems, and fire suppression equipment. BESS facilities are prohibited in agricultural zones under this ordinance.

C. Agricultural and Soil Terms

Class I Soil: The highest capability classification in the USDA NRCS Land Capability Classification System. Class I soils have few limitations that restrict their use for agriculture.

They are prime farmland of the highest quality. Under this ordinance, Class I soils are categorically protected from energy facility siting — no CUP, variance, or waiver may override this prohibition.

Class II Soil: The second-highest capability classification. Class II soils have moderate limitations that reduce the choice of plants or require moderate conservation practices. Still considered prime farmland. Subject to the same categorical prohibition as Class I.

Prime Farmland: Land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops (USDA definition). In Jerome County, virtually all irrigated agricultural land qualifies as prime farmland.

Irreversible Conversion: The permanent transformation of agricultural land to non-agricultural use, as defined by the Farmland Protection Policy Act (FPPA, 7 U.S.C. §4201). The USDA NRCS has documented six categories of soil damage from solar construction: compaction, erosion, organic matter loss, drainage alteration, contamination, and biological disruption. NC State University (2021) documents 20–40% yield loss post-decommission; Welsh Government (2023) documents recovery timescales of 18–30 years to permanent.

Agricultural Protection Area (APA): A designation under the Idaho Agricultural Protection Area Act (2024), as amended by SB 1133 (signed April 1, 2025), that prohibits solar and wind energy structures on APA-designated lands. The County's Class I/II prohibition is consistent with and complementary to this state law.

D. Regulatory Framework Terms

County Siting Posture Metric (CSPM): A 100-point structured scoring methodology assessing six dimensions critical to energy siting policy: Infrastructure Capacity, Agricultural Protection, Regulatory Capacity, Community and Plan Alignment, Economic Conditions, and Cumulative Pressure. Used to determine the appropriate regulatory posture for a county. Jerome County's CSPM score supports a restrictive posture.

Anti-Circumvention / Aggregation Provision: A regulatory mechanism preventing developers from splitting a single large project into multiple smaller applications to avoid higher-tier review. Under Section 11-9, projects by the same owner within 5 miles and 5 years that share infrastructure are aggregated as a single project for tier classification.

General Welfare No-Balancing Rule: A Tier 3 decision standard providing that if any component of general welfare is adversely impacted for any non-participating landowner, the Board must deny the application. No offsetting of project benefits against individual harms is permitted. This prevents the argument that economic benefits to some justify economic harm to others.

Decommissioning Bond / Trust Fund: Financial assurance instruments guaranteeing that all equipment will be removed and the site restored at no cost to the county or adjacent

landowners. Required at 150% of the county-verified estimated removal and restoration cost. Tier 2 projects post a bond; Tier 3 projects establish a trust fund. Updated every 2–3 years by county-commissioned appraisal at applicant's expense.

Payment-in-Lieu-of-Taxes (PILOT): A negotiated agreement between a developer and a local government under which the developer makes fixed annual payments instead of paying standard property taxes. PILOTs typically reduce the effective tax rate by 50–90% for 10–20 years, resulting in significantly less revenue than a productive farm would generate on the same land.

E. Notification and Public Participation

County-Wide Notification: Written notice to all property owners throughout Jerome County, published notice in all newspapers of general circulation, posted notice on the County website and at the courthouse, and direct written notice to all irrigation districts, canal companies, and school districts. Required for all Tier 2 and Tier 3 energy and data center projects under the county-wide or 25-mile standard.

25-Mile Notification Radius: The minimum notification distance for all Tier 2 and Tier 3 energy and data center projects. County-wide or 25-mile radius, whichever is greater. Justified by the systemic, county-wide nature of impacts: utility rate effects on all ratepayers, grid infrastructure costs socialized across all customers, groundwater depletion affecting aquifer levels county-wide, and the unprecedented scale of modern energy and data center projects that most residents do not yet fully understand.

Public Hearing: A formal proceeding at which the public may present testimony and evidence for or against a proposed action. Tier 2 projects require one hearing before the P&Z Commission. Tier 3 projects require two hearings: one in the project area and one at the county seat. All hearings require 21-day advance written notice.

Written Findings: A formal written decision by the decision-making body specifically addressing all substantive comments and objections raised in the record and making affirmative findings on each required standard. Written findings are required for both approvals and denials and create the official record for any subsequent judicial review.

F. Impact and Measurement Terms

Shadow Flicker: The alternating pattern of light and shadow caused by rotating wind turbine blades passing between the sun and an observer. Can trigger photosensitive epilepsy, cause annoyance, and reduce property values. Measured in hours per year at receptor locations.

Setback: The minimum required distance between a facility component and a property line, road, residence, water feature, or other protected feature. Setbacks are measured from the nearest point of the facility component to the nearest point of the protected feature.

Nameplate Capacity: The maximum rated output of an energy generation facility under standard test conditions, measured in kilowatts (kW) or megawatts (MW). Used as the primary metric for tier classification. 1 MW = 1,000 kW.

dBA (A-Weighted Decibels): A unit of sound measurement weighted to approximate human hearing sensitivity. The ordinance establishes noise limits of 35 dBA (daytime) and 30 dBA (nighttime) at the property line of non-participating parcels for Tier 3 projects.

Environmental Impact Assessment (EIA): A county-commissioned, applicant-funded comprehensive study of a project's environmental, agricultural, economic, and community impacts. Required for all Tier 3 projects. Must address soil, water, noise, visual, traffic, property value, wildlife, and cumulative impacts.

G. Legal and Constitutional Terms

Police Power: The constitutional authority of state and local governments to regulate behavior and enforce order for the betterment of health, safety, morals, and general welfare. The foundation for all zoning and land use regulation. Village of Euclid v. Ambler Realty Co., 272 U.S. 365 (1926).

Takings Clause: The Fifth Amendment provision that private property shall not be taken for public use without just compensation. Applied to states through the Fourteenth Amendment. A regulation that merely limits the manner of use or denies a particular development type is generally not a taking. Penn Central Transportation Co. v. City of New York, 438 U.S. 104 (1978).

Nexus and Rough Proportionality: The constitutional requirements that conditions imposed on development must be reasonably related to the project's impacts (nexus) and proportional to them (rough proportionality). Nollan v. California Coastal Commission, 483 U.S. 825 (1987); Dolan v. City of Tigard, 512 U.S. 374 (1994).

Idaho Local Land Use Planning Act (LLUPA): Idaho Code §67-6501 et seq. The state statute authorizing counties to adopt comprehensive plans and zoning ordinances. Requires that zoning ordinances be consistent with the comprehensive plan. The legal foundation for Jerome County's regulatory authority over energy facilities.

Farmland Protection Policy Act (FPPA): Federal law (7 U.S.C. §4201) establishing the policy of minimizing the extent to which federal actions contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses. Uses the term "irreversible conversion" to describe the permanent loss of agricultural productivity.

SB 1133 (Idaho, 2025): Senate Bill 1133, signed April 1, 2025, amending the Idaho Agricultural Protection Area Act to prohibit solar and wind energy structures on APA-designated lands. Reflects the state legislative direction toward agricultural land protection that the County's ordinances are consistent with.

HCR032 (Idaho, 2026): House Concurrent Resolution 32, adopted March 16, 2026 by the Idaho House of Representatives. Declares that energy transmission infrastructure that does not benefit Idaho utility customers and materially harms agriculture, critical water resources, or rural communities is inconsistent with state policy. Affirms that “private property rights, local land use authority, and the protection of agricultural and rural communities are paramount considerations” in energy infrastructure siting. Recognizes the Eastern Snake Plain Aquifer as a critical resource of statewide importance. Requires all major energy projects to demonstrate clear, measurable, durable net benefit to Idaho ratepayers.

H. Community Survey Evidence

JTown Beacon Community Survey (March 2026): A ten-question community survey of 65 Jerome County respondents measuring positions on energy siting, agricultural preservation, notification, decommissioning, and regulatory adequacy. The survey provides direct evidence of community sentiment supporting the regulatory framework proposed in this document package. Key findings cited throughout the package include: 93.8% prioritize agricultural preservation (Q1); 93.7% oppose large-scale energy in agricultural zones (Q3); 92.3% concerned about BESS safety (Q5); 80% say current guidelines not strict enough (Q6); 90.8% support county-wide notification (Q7); 90.8% rate decommissioning financial assurance as extremely important (Q8); 87.7% say energy development should be limited to protect farmland (Q9); 80% say current approach needs significant revision (Q10).

DOCUMENT REVISION HISTORY

Glossary of Definitions and Key Terms

Version	Date	Changes / Updates	Reviewed By
v1	Mar 2026	Initial glossary of legal, technical, agricultural, and regulatory terms	J. Pierson
v2	Mar 2026	Added data center facility definition, BESS definition, tier classification definitions	J. Pierson
v3	Mar 2026	Expanded constitutional law terms, added CSPM definition	J. Pierson
v4	Mar 2026	Added Section H (Community Survey Evidence) and HCR032 definition in Section G	J. Pierson
v5	Mar 22, 2026	Added revision tracking page; final consistency review	J. Pierson
v6	Mar 23, 2026	Added IdahoEnergy logo to footer; package expanded from 14 to 17 documents	J. Pierson

REVIEW NOTES

JEROME COUNTY ENERGY ORDINANCE REFORM

Summary of Sources by Category

Jeff Pierson | Confidential Solutions LLC | 713 East Ave C, Jerome, Idaho | March 2026

This document catalogs every source cited across the document package, organized by category. Each entry identifies the source, what it establishes, and the documents in which it is cited.

1. Federal Agencies and Government Programs

USDA NRCS Conservation Guidance (December 2024) — Documents six categories of soil conservation damage from solar construction: compaction, erosion, organic matter loss, drainage alteration, contamination, and biological disruption. Establishes that large-scale solar construction causes measurable, long-term harm to agricultural soils. Cited in: Response to P&Z, Chapter 10, Chapter 11, Guide.

USDA Census of Agriculture — Jerome County Profile — Jerome County: $639.6 million market value of agricultural products (4th in Idaho), 157,000+ irrigated acres, $274 million in annual milk sales (#16 nationally), 59th most productive agricultural county in the nation. Establishes the economic significance of agriculture requiring protection. Cited in: Response to P&Z, Chapter 10, Guide.

Farmland Protection Policy Act (FPPA), 7 U.S.C. §4201 — Federal law establishing policy of minimizing irreversible conversion of farmland to nonagricultural uses. Uses the term “irreversible conversion” to describe permanent loss of agricultural productivity. Cited in: Response to P&Z, Glossary.

EPA RE-Powering America’s Land Initiative — 190,000+ acres of pre-screened contaminated and disturbed land suitable for renewable energy development. 624+ active brightfield projects nationwide. Establishes that already-disturbed land is available and appropriate for energy siting, making conversion of agricultural land unnecessary. Cited in: Response to P&Z, Guide.

Congressional Research Service, "Data Centers: Background and Key Policy Issues" (2024) — Documents that data centers alter local tax bases, bring noise pollution, high electricity usage, and water consumption, posing environmental and quality-of-life concerns. Cited in: Position Paper.

U.S. EIA, Monthly Energy Review (2025) — Average electricity prices increased from ~13 cents/kWh (pre-2019) to 19 cents/kWh by end of 2025 — approximately 27% increase. Establishes baseline for utility rate impact analysis. Cited in: Position Paper.

IRA (Inflation Reduction Act) — 10% tax credit bonus for energy community siting on already-disturbed land. Establishes federal incentive structure that directs development to appropriate locations. Cited in: Response to P&Z, Guide.

2. Peer-Reviewed Research and Academic Studies

Hoen et al., Proceedings of the National Academy of Sciences (PNAS, 2025) — Documents 4.8% property value decline within 1 mile of utility-scale solar installations. Negative effects extend to approximately 3 miles. For a $400,000 home, this represents $19,200 in lost equity. Cited in: Response to P&Z, Position Paper, Chapter 7, Chapter 11, Guide.

Hoen et al., Lawrence Berkeley National Laboratory (LBNL, 2023) — Homes within 0.5 miles of large-scale PV projects experience average 1.5% price reduction; effects concentrate in rural locations, on agricultural land, for larger projects. Confirms 1.5–4.9% reductions depending on context. Cited in: Response to P&Z, Position Paper, Chapter 11, Guide.

Hoen et al., LBNL, "Spatial Hedonic Analysis of Wind Energy Facilities" (2009–2023 series) — Wind turbine proximity causes 5–10% property value decline within 0.5–1 mile, beginning at project announcement. Effects are persistent. Cited in: Position Paper.

Garbacz et al., "Examining the Impact of Utility-Scale Solar on Property Values" (2023) — Confirms negative property value impacts of 1.5–3.6%, equal to $4,721–$11,330 per home (2019 dollars). Cited in: Position Paper.

NC State University (2021) — Documents 20–40% yield loss on agricultural land for 3–5 years following decommissioning of solar installations. Establishes that solar development on farmland causes measurable, multi-year agricultural productivity loss. Cited in: Response to P&Z, Guide.

Welsh Government (2023) — Documents recovery timescales of 18–30 years to permanent for agricultural soils disturbed by solar construction. Some soils never fully recover. Cited in: Response to P&Z, Guide.

American Farmland Trust (AFT), Farms Under Threat 2040 — Projects that 83% of utility-scale solar development will target agricultural land. Establishes the systemic threat to farmland from energy development. Cited in: Response to P&Z, Guide.

Center for Regional Analysis, George Mason University (Northern Virginia study) — Found that proximity to data centers did not create persistent property value drag in Northern Virginia — but this market has 150+ hyperscale facilities and 35% of global hyperscale concentration. Results are not transferable to rural agricultural communities. Cited in: Position Paper.

3. State and Local Legislation

Idaho SB 1133 (signed April 1, 2025) — Amends the Idaho Agricultural Protection Area Act to prohibit solar and wind energy structures on APA-designated lands. Establishes state legislative direction toward agricultural land protection. Cited in: Response to P&Z, Chapter 10, Glossary.

Idaho Agricultural Protection Area Act (2024) — State law safeguarding Idaho's working farms, ranches, and forests from conversion to non-agricultural uses. Foundation for SB 1133 amendment. Cited in: Chapter 10, Glossary.

Idaho Code §63-3029B — Solar facility property tax exemption provision. Relevant to analysis of actual vs. promised tax revenue from energy development. Cited in: Position Paper, Guide.

Idaho HCR032 (2026) — House Concurrent Resolution on State Energy Sovereignty — Adopted by the Idaho House of Representatives March 16, 2026. Declares that transmission infrastructure that does not benefit Idaho utility customers and materially harms agriculture, critical water resources, or rural communities is inconsistent with state policy. Affirms that "private property rights, local land use authority, and the protection of agricultural and rural communities are paramount considerations" in energy infrastructure siting. Recognizes the Eastern Snake Plain Aquifer as "a critical ground water resource supporting Idaho agriculture, rural communities, and economic stability." Requires all major energy transmission projects to demonstrate "clear, measurable, and durable net benefit to Idaho ratepayers." Cited in: Response to P&Z, Chapter 10, Chapter 11, Position Paper, Water & Utilities Supplement, Guide.

Idaho Local Land Use Planning Act (LLUPA), Idaho Code §67-6501 et seq. — State statute authorizing counties to adopt comprehensive plans and zoning ordinances. Requires zoning-comprehensive plan consistency. Legal foundation for Jerome County's regulatory authority. Cited in: Chapter 10, Glossary.

4. County-Level Regulatory Precedents

Cecil County, Maryland — Enacted categorical prohibition on energy facility siting on Class I and Class II agricultural soils. One of the strictest agricultural soil protections in the United States. Precedent sustained and operational. Cited in: Response to P&Z, Chapter 10, Guide.

Montgomery County, Maryland — Enacted categorical prohibition on energy facility siting on Class I and Class II soils. Companion precedent to Cecil County. Cited in: Response to P&Z, Chapter 10.

Bannock County, Idaho (March 2024) — Total ban on utility-scale solar and wind energy facilities. Demonstrates that Idaho counties have exercised maximum regulatory authority over energy siting. Cited in: Response to P&Z, Guide.

Boone County, Indiana — Decommissioning bond at 150% of county-verified removal cost. Precedent for the financial assurance standard adopted in this ordinance package. Cited in: Chapter 11.

5. Constitutional and Case Law

Village of Euclid v. Ambler Realty Co., 272 U.S. 365 (1926) — Established the constitutionality of zoning as an exercise of the police power. The foundational case for all land use regulation. Cited in: Position Paper, Glossary.

Penn Central Transportation Co. v. City of New York, 438 U.S. 104 (1978) — Established the three-factor test for regulatory takings: economic impact, interference with investment-backed expectations, and character of government action. A property owner does not have a vested right in maximizing property value. Cited in: Position Paper, Glossary.

Nollan v. California Coastal Commission, 483 U.S. 825 (1987) — Established the "nexus" requirement: conditions on development must be reasonably related to the project's impacts. Cited in: Position Paper, Glossary.

Dolan v. City of Tigard, 512 U.S. 374 (1994) — Established the "rough proportionality" requirement: conditions must be proportional to impacts. Together with Nollan, provides the framework for impact-based conditions on energy and data center development. Cited in: Position Paper, Glossary.

Agins v. City of Tiburon, 447 U.S. 255 (1980) — Confirmed that a regulation resulting in diminution of value is not a taking where the regulation substantially advances legitimate state interests. Cited in: Position Paper.

6. Utility, Market, and Industry Data

Virginia State Corporation Commission (SCC) filings — Documents electricity price increases of up to 267% over five years in Virginia, driven substantially by data center demand. Cited in: Position Paper, Chapter 10.

S&P Global Market Intelligence, Regulatory Research Associates (2025) — Utilities requested more than $29 billion in rate increases in the first half of 2025 alone — double the prior year. Establishes the systemic nature of utility rate effects. Cited in: Position Paper.

PJM Interconnection, 2025–26 Base Residual Auction Results — Data centers accounted for estimated $9.3 billion price increase in the 2025–26 capacity market. Average residential bills expected to rise $18/month in western Maryland, $16/month in Ohio. Cited in: Position Paper, Chapter 11.

NPR/AP Reporting (2025) — Confirms PJM capacity market price increases and documents residential bill impacts from data center-driven demand. Cited in: Position Paper.

CNBC Reporting (2025) — Documents Virginia utility rate increases linked to data center concentration. Cited in: Position Paper.

7. Water Resources and Infrastructure

Idaho Department of Water Resources (IDWR), 2024–2025 Shortfall Determinations — IDWR identified a 74,000 acre-foot shortfall in 2024, growing to 75,300 acre-feet by July 2025. Curtailment ordered for all junior groundwater rights after October 11, 1900—the earliest cutoff date ever established. Establishes that the ESPA is already in deficit with no margin for new large-scale industrial water demand. Cited in: Water & Utilities Supplement.

Idaho SB 1341 (2024 Legislative Session) — Updated the ESPA Area of Common Ground Water Supply boundaries effective July 1, 2024, reflecting tighter regulatory controls over groundwater management. Cited in: Water & Utilities Supplement.

S&P Global, "Beneath the Surface: Water Stress in Data Centers" (2025) — Data centers consumed approximately 66 billion liters of water in 2023; projections reach 150–300 billion liters annually by 2028. Large data centers can consume up to 5 million gallons per day. Cited in: Water & Utilities Supplement.

Brookings Institution, "The Local Implications of Data Centers for Rural Communities" (2025) — A single data center can become the largest water consumer in a rural community overnight. Communities face lower water tables, depleted wells, competition for municipal supply, and reduced stream flows. Cited in: Water & Utilities Supplement, Position Paper.

Bluefield Research, "Data Center Water Secrecy Hurts Communities" (2025) — 80% of 31 Virginia municipalities studied had non-disclosure agreements with data center developers limiting public access to water consumption data. Cited in: Water & Utilities Supplement.

Department of Energy, Data Center Energy Use Report (2024) — Data center load growth tripled over the past decade and will double or triple by 2028. Data centers consumed over 4% of U.S. electricity and emitted 106 million metric tons of CO2 in 2024. Cited in: Water & Utilities Supplement.

National Caucus of Environmental Legislators, April 2025 Analysis — Over 60 pieces of data center legislation introduced across 22 states in 2025, most focused on ratepayer protection. Cited in: Water & Utilities Supplement.

Clean Cloud Act of 2025 (Senators Whitehouse and Fetterman) — Federal legislation amending the Clean Air Act to set emissions standards for data center equipment and require energy consumption data collection. Cited in: Water & Utilities Supplement.

Stateline, "With electricity bills rising, some states consider new data center laws" (February 2026) — Documents state legislative responses including Delaware higher rates, Florida new rate structures, Oklahoma moratorium, and Pennsylvania ratepayer protections. Cited in: Water & Utilities Supplement.

8. Community Survey Data

JTown Beacon Community Survey (March 2026, 65 respondents) — A ten-question community survey conducted by the JTown Beacon measuring Jerome County residents' positions on energy siting, agricultural preservation, notification requirements, decommissioning, and regulatory adequacy. Key findings: 93.8% rate agricultural land preservation as important or extremely important (Q1); 93.7% oppose allowing large-scale energy development in agricultural zones (Q3); 49.2% support small-scale on-site systems in ag zones while 29.2% oppose (Q4); 92.3% are concerned about BESS safety risks (Q5, 83.1% very concerned); 80% say current guidelines are not strict enough (Q6); 90.8% support county-wide notification for all proposed energy and data center projects (Q7); 90.8% rate decommissioning financial assurance as extremely important (Q8); 87.7% say energy development should be limited to protect farmland and rural character (Q9); 80% say the current approach needs significant revision (Q10). Cited in: Response to P&Z, Position Paper, Chapter 7, Chapter 10, Chapter 11, Guide.

9. National Public Opinion and Opposition Data

Pew Research Center, "Americans' Views on Local Wind and Solar Power Development" (June 27, 2024) — About half of rural residents say a solar panel farm would make their landscape ugly (compared to 37% of urban residents). Only 35% of rural residents believe a local solar farm would lower their electricity prices (vs. 51% urban). Documents the rural-urban divide in solar/wind attitudes. Cited in: Survey & Public Opinion Supplement.

AP-NORC Poll, "Support for solar energy and offshore wind falls" (June 2025) — Fewer than half of U.S. adults (44%) now support expanding offshore wind farms, down from 59% in 2022. About half favor expanding solar panel farms, down from approximately

two-thirds in 2022. Documents the significant national decline in renewable energy support. Cited in: Survey & Public Opinion Supplement.

Just The News, "Rural communities fought wind and solar developments in 2024" (2024) — 117 renewable energy projects were rejected nationwide in 2024—including 39 wind projects and 78 solar projects. Rejections concentrate heavily in rural agricultural communities. Cited in: Survey & Public Opinion Supplement.

Data Center Watch, "$64 billion of data center projects blocked or delayed amid local opposition" (2025–2026 tracking) — $64 billion in data center projects have been blocked or delayed by community opposition since mid-2024. Cancellations accelerated from 2 projects in 2023 to 25 in 2025. At least 188 organized opposition groups span 40 states. Lawmakers in 14+ states have enacted or proposed moratoriums. Water use is the primary concern (40%+ of contested projects). Cited in: Survey & Public Opinion Supplement.

TechPolicy.Press, "The Real Race for an AI Moratorium: Stopping Data Centers" (2025) — Documents the scale and bipartisan nature of data center opposition. Republican officials raise concerns about tax incentives and grid strain; Democrats focus on environmental impacts and resource consumption. Cited in: Survey & Public Opinion Supplement.

Daily Yonder / Maine Morning Star, "As Data Centers Look to Rural New England, Maine Considers a Moratorium" (February 23, 2026) — Maine legislature considering moratorium on data centers above 20 MW until July 2028. Documents rural New England opposition pattern. Cited in: Survey & Public Opinion Supplement.

Signal Ohio, "Ohio's data center boom is running into political resistance" (2025) — Multiple local moratoriums in Ohio (Lordstown, Washington Township) amid packed public meetings and referendum threats. Cited in: Survey & Public Opinion Supplement.

Carbon Credits, "Environmental Groups Urge U.S. Congress to Pause Data Center Growth" (2025) — 230+ environmental and public-interest groups asked Congress to halt approvals for new data centers until federal rules address energy use, water needs, local impacts, and emissions. Cited in: Survey & Public Opinion Supplement.

10. Data Center Crisis, AI Bubble, and Infrastructure Risk

Goldman Sachs, "Why AI Companies May Invest More than $500 Billion in 2026" (2026) — Projects $700 billion in AI buildout spending by four hyperscalers in 2026. CEO David Solomon acknowledged expectation that "a lot of capital deployed won't deliver returns." Cited in: Data Center Crisis Position Paper.

Fortune / Goldman Sachs, "Middle-class Americans are paying for the data center and AI boom" (February 13, 2026) — Electricity prices surged nearly 7% in 2025. Utilities requested record $31 billion in rate increases (double 2024). Goldman projects 6% consumer electricity inflation 2026–2027, 0.2% drag on consumer spending, 0.1% drag on GDP. Cited in: Data Center Crisis Position Paper.

Yale School of Management, "This Is How the AI Bubble Bursts" (2025) — Identifies three collapse mechanisms: concentration contagion, governance failures, and disruptive substitutions. 95% of organizations achieved zero ROI on GenAI. AI stocks represent 75% of S&P 500 returns since November 2022. 40% of CEOs believe correction is imminent. Cited in: Data Center Crisis Position Paper.

Sightline Climate, "Data Center Outlook: Half of 2026 Pipeline May Not Materialize" (2026) — Tracking 190 GW across 777 large data centers announced since 2024. 30–50% of 2026 pipeline unlikely to come online. Up to 11 GW shows no signs of construction. Cited in: Data Center Crisis Position Paper.

EPRI, Data Center Electricity Consumption Projections (2025–2026) — Data centers could account for 9–17% of total U.S. electricity by 2030, up from 4.4%. Current draw approximately 41 GW—a 150% increase over five years. Cited in: Data Center Crisis Position Paper.

Jeff A. Pierson, "The AI/Data Center Bubble," JTown Beacon (November 22, 2025) — Documents six defining traits of the data center bubble: overbuilding, speculative capital, resource extraction, techno-utopian marketing, hollow applications, and stranded asset risk. 12 MW facility = ~20 jobs; public cost per job exceeds $1–2M. Cited in: Data Center Crisis Position Paper.

NPR, "Here's why concerns about an AI bubble are bigger than ever" (November 2025) — Documents industry leader acknowledgments of bubble risk (Bezos, Altman). AI capex surpassed consumer spending as primary GDP growth driver. Cited in: Data Center Crisis Position Paper.

MediaJustice, Data Center Energy Impact Study (2025) — In South Carolina, data centers account for 65–70% of all new energy usage. Communities in the South disproportionately affected. Rural farming communities and communities of color impacted most. Cited in: Data Center Crisis Position Paper.

11. Natural Law, Legal Philosophy, and Constitutional Foundations

John Locke, Second Treatise of Government (1689) — Establishes the natural law foundations of property rights, the labor theory of property, the sufficiency proviso ("enough, and as good, left in common for others"), and the principle that government exists to secure natural rights. Cited in: Legal, Ethical & Moral Justification.

Declaration of Independence (1776) — Declares that all people "are endowed by their Creator with certain unalienable Rights" and that government exists to secure these rights. Establishes the natural law foundation of the American constitutional system. Cited in: Legal, Ethical & Moral Justification.

Palko v. Connecticut, 302 U.S. 319 (1937) — Justice Cardozo's articulation of "ordered liberty"—the constitutional principle that freedom exists within a framework of mutual obligation. Establishes that liberty is not the absence of all restraint but the presence of a just framework enabling all persons to exercise their rights. Cited in: Legal, Ethical & Moral Justification.

Sic Utere Tuo Ut Alienum Non Laedas (Common Law Maxim) — Ancient legal maxim: "Use your own property so as not to harm another's." One of the oldest principles of justice in Western legal tradition, predating the Constitution and common law. Foundation for nuisance law and land use regulation. Cited in: Legal, Ethical & Moral Justification.

DOCUMENT REVISION HISTORY

Summary of Sources by Category

Version	Date	Changes / Updates	Reviewed By
v1	Mar 2026	Initial source catalog: federal agencies, peer-reviewed research, state legislation, case law, utility data	J. Pierson
v2	Mar 2026	Added data center sources, expanded utility/market data category	J. Pierson
v3	Mar 2026	Added county-level precedents, IRA citation	J. Pierson
v4	Mar 2026	Added Category 7 (Water Resources), Category 8 (Community Survey), HCR032 in Category 3	J. Pierson
v5	Mar 22, 2026	Added Category 9 (National Public Opinion), Category 10 (Data Center Crisis), Category 11 (Natural Law); revision page	J. Pierson
v6	Mar 23, 2026	Added IdahoEnergy logo to footer; package expanded from 14 to 17 documents	J. Pierson

REVIEW NOTES

RECIPIENT MAILING LIST

Jerome County Energy Ordinance Reform Package — Letter of Submittal

March 22, 2026

PRIMARY RECIPIENTS (TO:)

Recipient	Physical Address	Phone	Email
Jerome County Planning & Zoning Commission	300 N Lincoln Ave Jerome, ID 83338	(208) 644-2714	Contact via County Clerk
Jerome County Board of County Commissioners	300 N Lincoln Ave Jerome, ID 83338	(208) 644-2700	Contact via County Clerk
Jerome County Clerk	300 N Lincoln Ave #301 Jerome, ID 83338	(208) 644-2714	Contact via main line
Idaho State Archives	2205 Old Penitentiary Road Boise, ID 83712	(208) 334-2620	public.archives@ishs.idaho.gov

CC RECIPIENTS

Recipient	Physical Address	Phone	Email
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Rep. Mike Pohanka Idaho House, District 26A	Jerome, ID 83338	(208) 490-4709 (Home) (208) 332-1174 (Session)	MPohanka@house.idaho.gov
Sen. Ron Taylor Idaho Senate, District 26	Idaho State Capitol Boise, ID 83720	Via Legislature	RTaylor@senate.idaho.gov
Twin Falls County Board of Commissioners (Reinke, Hawkins, Matthews)	630 Addison Ave W, 2nd Floor P.O. Box 126 Twin Falls, ID 83303	(208) 736-4068	commiss@tfco.org
Idaho Public Utilities Commission	P.O. Box 83720 Boise, ID 83720-0074 (Street: 11331 W Chinden Blvd, Bldg 8, Ste 201-A, Boise 83714)	(208) 334-0300 Toll-free: 1-800-432-0369	secretary@puc.idaho.gov

Note: *Jerome County does not publish individual email addresses for elected officials on its public website. The County Clerk's office serves as the official point of contact for submissions to the P&Z Commission and Board of County Commissioners. Physical delivery or certified mail to 300 N Lincoln Ave, Jerome, ID 83338 is the recommended method for official submissions.*

Prepared by: *Jeff Pierson | March 23, 2026*

DOCUMENT REVISION HISTORY

Recipient Mailing List

Version	Date	Changes / Updates	Reviewed By
v1	Mar 2026	Initial mailing list compilation	J. Pierson
v5	Mar 22, 2026	Final recipient list with 218 addresses, state agency contacts added	J. Pierson
v6	Mar 23, 2026	Added IdahoEnergy logo to footer; package expanded from 14 to 17 documents	J. Pierson

REVIEW NOTES

JEROME COUNTY

Energy Ordinance Reform Package

Document 15 of 17

Legal Framework and Defensibility Analysis

An analysis of the constitutional, statutory, and regulatory basis for each provision in the reform

package and an assessment of potential legal challenges

Prepared by Jeff Pierson

Confidential Solutions LLC | Jerome, Idaho

March 2026

A. Purpose and Scope

This document demonstrates that the Jerome County Energy Ordinance Reform Package has been designed with constitutional and statutory defensibility as a foundational requirement. Every provision has been evaluated against applicable legal standards. This analysis is provided to assist the Board of County Commissioners and County legal counsel in evaluating the package's legal soundness.

This document should be read alongside Document 8 (Legal, Ethical & Moral Justification), which provides the affirmative constitutional basis for the package. This document addresses potential challenges and demonstrates that each provision has been designed to withstand them.

B. Statutory Authority — Idaho's Grant of Power

Idaho is a Dillon's Rule state — counties have only powers expressly granted or necessarily implied by the state legislature. The reform package operates squarely within these grants:

• Idaho Code §67-6511: Expressly grants zoning authority to counties

• Idaho Code §67-6509: Authorizes comprehensive planning including land use regulation

• Idaho Code §67-6512: Establishes conditional use permit authority with notice requirements

• Idaho HCR032 (2026): Energy sovereignty resolution explicitly supports local decision-making authority over energy siting

Assessment: STRONG. The three-tier classification system, CUP requirements, and environmental review provisions all fall within powers Idaho law expressly grants to counties.

C. Takings Analysis (5th Amendment / Idaho Constitution Art. I, §14)

Provision	Takings Risk	Basis
Three-tier system	LOW	Creates development pathways (Tier 1/2/3) rather than blanket prohibition. Penn Central three-factor test

		favors county: minimal economic impact (land retains ag value), no interference with existing investment-backed expectations, strong government interest character.
Class I/II soil prohibition	LOW	Farmland preservation upheld repeatedly. USDA-NRCS classifications are objective federal standards. Idaho Agricultural Protection Areas (§22-4501) recognize state interest. No regulatory taking where reasonable use (agriculture) is preserved.
BESS agricultural zone prohibition	LOW-MODERATE	Safety-based zoning restrictions have strong precedent. NFPA 855 standards, thermal runaway risk data, and 92.3% community concern support the restriction. Slightly higher risk because BESS isn't inherently incompatible with agriculture in all contexts.
Decommissioning bonds (125%)	LOW	Analogous to reclamation bonding in mining, which has been upheld consistently. Proportional to restoration costs.
Data center definition thresholds	LOW	Objective, measurable criteria (≥1MW or ≥100K gal/day). Classification triggers review, not prohibition.

Overall takings assessment: The tiered framework significantly reduces takings exposure compared to Bannock County's total ban approach. By preserving development pathways at every tier while calibrating scrutiny to impact, the package avoids the bright-line prohibition that most commonly triggers successful takings claims.

D. Due Process and Equal Protection

The tier classifications are based entirely on objective, measurable criteria: capacity in kilowatts/megawatts, acreage, and USDA-NRCS soil classifications. These are federal standards, not locally invented metrics. Under rational basis review (the applicable standard for economic regulation), the classifications are clearly tied to measurable impacts.

The graduated notification requirements (standard for Tier 1, county-wide for Tier 2, 25-mile for Tier 3) are proportional to impact scale and actually exceed due process minimums rather than falling short of them.

Assessment: STRONG. Science-based, federally grounded criteria. No arbitrary classifications.

E. Notification Radius Defensibility

The 25-mile notification radius for Tier 3 projects is the provision most likely to draw procedural challenge. Key defensive points:

1. No Idaho statute limits notification radius. Idaho Code §67-6512 requires notice but doesn't cap distance.

2. Broader notification is more protective of due process rights, not less.

3. Notification doesn't grant standing or veto power — it ensures informed participation.

4. The 25-mile radius is based on documented impact zones for large-scale energy facilities (visual impact, property value effects, aquifer drawdown, traffic).

5. Several Oregon counties have adopted similar expanded notification zones.

Assessment: STRONG. Expanding notice beyond minimums strengthens due process protection.

F. BESS Prohibition — Detailed Analysis

This is the provision with the highest relative legal risk in the package. The prohibition is categorical (all agricultural zones) rather than conditional.

Defensive Strengths:

- NFPA 855 and UL 9540A standards document thermal runaway risks
- Rural fire departments lack specialized BESS response capability
- 92.3% of surveyed residents expressed concern about BESS safety
- Proximity to crops, livestock, and irrigation infrastructure creates agricultural-specific risks
- No development pathway is foreclosed — BESS can be sited in industrial/commercial zones

Potential Vulnerabilities:

• A developer could argue small-scale BESS poses no agricultural risk

• Future BESS safety improvements could weaken the factual basis

Recommendation:

The prohibition is defensible as currently written. If the Board wishes to reduce legal exposure further, it could consider adding a conditional pathway for small-scale BESS (under 5 MWh) with enhanced safety conditions while maintaining the categorical prohibition for larger systems.

G. Preemption Risk Assessment

Current landscape: Idaho HCR032 (2026) actively supports local authority over energy siting. No current Idaho statute preempts county energy zoning.

Future risk: Several states have passed renewable energy preemption laws. Idaho could follow this pattern, particularly under industry lobbying pressure.

Mitigation: Adopting the ordinance while the political window is open is the strongest defense. Established local regulations are significantly harder to preempt retroactively than prospective regulations. Courts generally apply a higher standard when state preemption would invalidate existing local ordinances.

Assessment: LOW (current), MODERATE (future). Adopt now.

H. Comprehensive Defensibility Matrix

Provision	Legal Risk	Defensive Strength	Constitutional Basis	Recommendation
Three-tier classification	Low	Very Strong	Police power, rational basis	Adopt as written
Class I/II soil protection	Low	Very Strong	Ag preservation precedent, federal standards	Adopt as written
Community notification (county-wide/25-mi)	Low	Strong	Due process enhancement	Adopt as written

Decommissioning bonds (125%)	Low-Moderate	Strong	Reclamation bond precedent	Adopt as written
BESS agricultural zone prohibition	Moderate	Moderate-Strong	Safety-based zoning, NFPA standards	Adopt; consider small-scale pathway
Data center definition & Tier 3 classification	Low	Strong	Objective measurable criteria	Adopt as written
Environmental Impact Assessment (Tier 3)	Low	Very Strong	Within CUP conditioning authority	Adopt as written
CSPM policy framework (Ch 10)	Low	Strong	Within comprehensive planning authority	Adopt as written

I. Conclusion

The Jerome County Energy Ordinance Reform Package has been designed from the ground up with legal defensibility as a core requirement. Every provision is grounded in expressly granted statutory authority, objective federal standards, documented community values, and established constitutional precedent. The package creates development pathways rather than blanket prohibitions, uses science-based criteria rather than arbitrary classifications, and enhances due process protections rather than restricting them.

The single provision carrying the highest relative risk — the BESS agricultural zone prohibition — is supported by documented safety standards and overwhelming community concern, and could be further strengthened with a narrow conditional pathway if the Board determines that additional legal margin is warranted.

This analysis should be reviewed by Jerome County's legal counsel before adoption. It is provided as an informational supplement to assist in that review, not as a substitute for legal advice.

Jeff Pierson | Confidential Solutions LLC | Jerome, Idaho

DOCUMENT REVISION HISTORY

Legal Framework and Defensibility Analysis

Version	Date	Changes / Updates	Reviewed By
v5	Mar 23, 2026	Initial creation as Document 15. Constitutional, statutory, and regulatory defensibility analysis for all major provisions.	J. Pierson
v6	Mar 23, 2026	Added IdahoEnergy logo to footer; integrated into 17-document package	J. Pierson

REVIEW NOTES

JEROME COUNTY

Energy Ordinance Reform Package

Document 16 of 17

Fiscal Impact and Tax Revenue Analysis

An analysis of the tax revenue trade-offs, stranded asset risks, utility rate impacts, and long-term fiscal implications of energy development regulation

Prepared by Jeff Pierson

Confidential Solutions LLC | Jerome, Idaho

March 2026

A. Purpose

A common objection to energy development regulation is that it will cost the county tax revenue. This analysis examines the actual fiscal dynamics and demonstrates that responsible regulation protects the county's long-term fiscal position rather than undermining it.

B. Agricultural Land — The Stable Tax Base

Jerome County's agricultural land generates stable, predictable, recurring property tax revenue. Under Idaho's Agricultural Property Tax program, agricultural land is assessed at actual-use value. Key characteristics:

- Revenue is stable year over year — not dependent on market cycles, corporate decisions, or technology trends
- Agricultural property is maintained by private operators at no cost to the county
- Agricultural operations support a downstream economic ecosystem (processing, transport, retail, services) that generates additional tax revenue
- Jerome County's agricultural sector is anchored by irrigated cropland that is among the most productive in the nation

The reform package's Class I/II soil protection ensures this tax base remains intact.

C. The Tax Revenue Illusion — Energy Projects

Large-scale energy projects are frequently promoted as tax revenue generators. The reality is more nuanced:

Common Tax Incentives for Large Energy Projects in Idaho

Incentive	Effect	Idaho Code
Renewable Energy Equipment Exemption	Solar/wind equipment exempt from property tax for up to 5 years	§63-3622B

Investment Tax Credit Passthrough	Federal ITC reduces effective taxable value	26 U.S.C. §48
PILOT Agreements	Negotiated payments in lieu of taxes, typically 50-80% below standard rates	Local negotiation
Tax Increment Financing (TIF)	Tax revenue diverted to developer-favorable districts	§50-2901 et seq.
Data Center Incentives	State and local incentive packages as condition of siting	Varies by deal

Bottom line: The headline tax revenue number promoted by developers rarely reflects what the county actually receives after incentives, exemptions, and negotiated concessions.

D. Stranded Asset Risk — The $700 Billion Question

The reform package's data center crisis position paper (Document 9) documents that the current AI-driven infrastructure boom has structural characteristics of a speculative bubble. The fiscal implications of bubble deflation are severe:

Stranded Asset Fiscal Impact Scenarios

Scenario	Tax Revenue	Cleanup Cost	Agricultural Recovery	Net Fiscal Impact
Project operates full term	Positive (reduced by incentives)	Bonded (with reform package)	N/A	Moderate positive
Project abandoned at year 10	Drops to zero	$5-15M per 500-acre installation	Lost permanently if soil degraded	Severe negative
Project abandoned, NO bond	Drops to zero	Falls to county taxpayers	Lost permanently	Catastrophic

The reform package's 125% decommissioning bond requirement is the critical fiscal protection. Without it, abandoned facilities become unfunded county liabilities.

Historical precedent: Wyoming's orphaned oil well cleanup program has cost state taxpayers over $400 million. Idaho should learn from this example.

E. Utility Rate Impacts

Large energy consumers — particularly data centers — drive utility infrastructure expansion that is funded by rate increases on ALL customers:

- Idaho Power 2025 rate case: 7.48% average increase (original ask was 17% on residential customers)
- Idaho Power 20-year plan: projects 50-75% capacity increase needed for new large loads
- Gemstone Technology Park (Kuna): estimated 600-800 MW demand — roughly 20% of Idaho Power's entire current generation capacity
- Rate increases affect every household and business in the county, including agricultural operations that depend on affordable power for irrigation pumping

The reform package's data center definition and Tier 3 classification requirements ensure that the county has a voice in decisions that will affect every ratepayer.

F. The Net Fiscal Equation

Fiscal Factor	Unrestricted Development	With Reform Package
Agricultural tax base	At risk of permanent conversion	Protected by Class I/II prohibition
Energy project tax revenue	High initially, uncertain long-term, reduced by incentives	Moderate, more sustainable, appropriately scrutinized
Decommissioning liability	Unfunded — taxpayer-funded if abandoned	125% bonded before permit issuance
Utility rates	Significant increases passed to all customers	Growth managed through Tier 3 review process
Rural property values	Depressed near industrial facilities	Protected by setbacks, buffers, and zoning
Water resource costs	Externalized to public	Regulated through EIA and data center thresholds
Emergency services burden	Unfunded BESS response capability required	BESS prohibited in ag zones; Tier 3 safety review required

Long-term fiscal stability	Dependent on continued private investment	Anchored by permanent agricultural productivity

G. The "We Need the Tax Base" Argument

This is the most commonly raised fiscal objection. The response is straightforward:

Jerome County's agricultural sector already provides a stable, diversified, and self-sustaining tax base. The county is not in fiscal distress. It does not need to accept industrial energy development on agricultural land to balance its budget.

The CSPM framework (Document 17) scores Economic Conditions on a 0-10 scale. Counties in genuine fiscal distress — where energy development represents an economic lifeline — score high on this dimension, which argues against restriction. Jerome County does not score high on this dimension. Its economy is anchored by one of the most productive agricultural regions in the nation.

The question is not whether energy development generates tax revenue. It does. The question is whether the long-term fiscal risk of unrestricted development outweighs the short-term revenue benefit. This analysis demonstrates that it does.

H. Conclusion

Responsible regulation does not cost the county money. It prevents the county from absorbing costs that should be borne by developers. The reform package's key fiscal protections — decommissioning bonds, Class I/II soil preservation, data center review requirements, and BESS agricultural zone prohibition — each serve a specific fiscal purpose: ensuring that the risks and costs of energy development are not externalized to Jerome County taxpayers.

Jeff Pierson | Confidential Solutions LLC | Jerome, Idaho

DOCUMENT REVISION HISTORY

Fiscal Impact and Tax Revenue Analysis

Version	Date	Changes / Updates	Reviewed By
v5	Mar 23, 2026	Initial creation as Document 16. Tax revenue trade-offs, PILOT analysis, stranded asset scenarios, net fiscal equation.	J. Pierson
v6	Mar 23, 2026	Added IdahoEnergy logo to footer; integrated into 17-document package	J. Pierson

REVIEW NOTES

JEROME COUNTY

Energy Ordinance Reform Package

Document 17 of 17

CSPM Framework Application and Methodology

Application of the County Siting Posture Metric to Jerome County — a structured scoring framework for evaluating the county's regulatory posture toward energy facility development

Prepared by Jeff Pierson

Confidential Solutions LLC | Jerome, Idaho

March 2026

What is the CSPM?

The County Siting Posture Metric (CSPM) is a 100-point structured scoring framework that evaluates where a county sits on the spectrum from "open for regulated development" to "ban justified." It was developed as part of the policy analysis

The Total Ban Question: When Counties Consider Banning Grid-Scale Energy Projects Outright — and How to Decide.

The CSPM is not a formula that produces a binding answer. It is a structured discipline that forces counties to assess each factor honestly, document the basis for each score, and arrive at a defensible posture. The process of completing it is as valuable as the score itself.

The CSPM operates at the POLICY LEVEL — it is referenced in Chapter 10 (Comprehensive Plan) and informs the county's overall regulatory stance. It is NOT a per-project requirement. The Environmental Impact Assessment (EIA) required under Chapter 11 for Tier 3 projects is the per-project evaluation mechanism. The CSPM justifies the framework; the EIA implements it within that framework.

The Six Scoring Dimensions

Each dimension is scored 0 (no concern) to 10 (critical constraint), then multiplied by a weighting factor. Maximum possible score: 100.

Dimension	Weight	What Is Being Measured
Infrastructure Capacity	×2.5 (max 25)	Water, power, roads, emergency response — can the county physically support these uses without unacceptable public cost or risk?
Agricultural Protection	×2.0 (max 20)	Is irreplaceable farmland or irrigation infrastructure at genuine risk of permanent conversion?

Regulatory Capacity	×1.5 (max 15)	Does the county have the staff, expertise, and legal standing to evaluate, condition, and enforce complex project approvals?
Community/Plan Alignment	×1.5 (max 15)	Does the comprehensive plan address these uses? Has the community expressed a clear preference through legitimate public process?
Economic Conditions	×1.5 (max 15)	Does the county have alternatives to this type of development? Would exclusion cause serious fiscal harm? NOTE: High scores argue AGAINST restriction. Inverted in formula: (10 − raw score) × 1.5.
Cumulative/Regional Pressure	×1.0 (max 10)	How much development pressure already exists or is anticipated? Is the county at or near a saturation point?

Scoring Guide

For each dimension, use the following anchored scoring rubric:

Infrastructure Capacity (×2.5)

0-2: No meaningful constraints. Infrastructure can accommodate these facility types with standard permitting.

3-5: Moderate constraints exist but are addressable through conditions of approval or developer-funded improvements.

6-8: Significant gaps in water, power, roads, or emergency services that cannot be fully mitigated by project conditions.

9-10: Critical infrastructure deficits. Approval would impose unacceptable public costs or create genuine safety risks.

Agricultural Protection (×2.0)

0-2: Little or no prime farmland in proposed development areas; viable non-agricultural alternatives exist.

3-5: Some prime farmland present; mitigation through siting standards or agricultural buffers is feasible.

6-8: Significant prime farmland or irrigation infrastructure at risk; alternative sites are limited.

9-10: Irreplaceable agricultural land, water rights, or infrastructure systems directly threatened; no viable alternatives.

Regulatory Capacity (×1.5)

0-2: County has experienced staff, access to technical expertise, and a strong track record on complex CUP enforcement.

3-5: County has moderate capacity; can manage complex applications with outside assistance.

6-8: Limited staff and expertise; track record on complex enforcement is weak; legal budget is constrained.

9-10: County genuinely cannot evaluate these applications or enforce conditions; approvals would be issued without meaningful oversight.

Community/Plan Alignment (×1.5)

0-2: Comprehensive plan addresses these uses and community sentiment is neutral or supportive.

3-5: Plan is silent or ambiguous; community sentiment is mixed with no clear mandate.

6-8: Plan is inconsistent with these uses; substantial community opposition documented through public process.

9-10: Plan explicitly discourages or opposes these uses; community has clearly and consistently opposed them.

Economic Conditions (×1.5, INVERTED)

0-2: County has a strong, diversified economy; is not fiscally dependent on this development type.

3-5: County is economically stable but would benefit from additional assessed valuation and employment.

6-8: County faces fiscal stress; exclusion of these uses would meaningfully harm the tax base.

9-10: County is in serious fiscal distress; these projects represent a significant economic lifeline.

IMPORTANT: This dimension is inverted in the formula. A low raw score (strong economy) produces a HIGH weighted contribution to the CSPM, supporting restriction.

Cumulative/Regional Pressure (×1.0)

0-2: Little development pressure; county is not a regional target; few applications pending or anticipated.

3-5: Moderate pressure; several applications have been filed; regional interest is growing.

6-8: High pressure; county is in a recognized siting corridor; multiple large-scale projects are in the pipeline.

9-10: Saturation pressure; cumulative footprint of pending or approved projects approaches or exceeds sustainable limits.

The CSPM Formula

CSPM = (Infrastructure × 2.5) + (Agriculture × 2.0) + (Regulatory Capacity × 1.5) + (Community Alignment × 1.5) + ((10 − Economic Score) × 1.5) + (Cumulative Pressure × 1.0)

Maximum possible score: 100

Score Thresholds

Score Range	Posture	Recommended Response
0-24	Open for Development	Standards-based CUP framework. Welcome applications. Focus on protective conditions.
25-44	Conditional Development	Strong CUP process with technical standards. Consider tiered classification. Require independent technical review.
45-64	Highly Restricted	Limit permitted areas through overlay districts. Establish moratorium while plan amendments completed. Require extraordinary findings.
65-79	Presumption Against Approval	Default posture is denial unless applicant demonstrates exceptional public benefit and fully mitigates all identified harms.
80-100	Ban Justified	Evidence base sufficient for blanket prohibition. Document record thoroughly. Amend comprehensive plan.

Important caveat: No single dimension score should automatically trigger a ban. Context matters.

Application to Jerome County

THIS IS THE MOST IMPORTANT SECTION. Apply the CSPM to Jerome County with documented findings for each dimension.

Dimension	Raw Score	Weight	Weighted Score	Basis
Infrastructure Capacity	8	×2.5	20.0	ESPA aquifer in 75,300 AF annual shortfall. Idaho Power projecting 50-75% capacity increase. Rural road network not designed for industrial traffic. Rural fire departments lack BESS/industrial response capability.
Agricultural Protection	9	×2.0	18.0	Jerome County contains significant Class I and Class II agricultural soils. Irrigated cropland is among the most productive in the nation. Conversion is permanent — topsoil removal for industrial use cannot be reversed. No viable alternative locations for agriculture.
Regulatory Capacity	7	×1.5	10.5	Small county staff. Limited technical expertise for evaluating complex energy applications. No dedicated environmental review capability. Legal budget constrained. Draft P&Z recommendations contained significant gaps.
Community/Plan Alignment	9	×1.5	13.5	93.7% oppose large-scale energy in ag zones. 90.8% want all residents notified. 80% say rules not strict enough. 92.3% concerned about BESS safety. Community has spoken clearly and consistently through documented survey.
Economic Conditions (inverted: 8)	2	×1.5	12.0	Jerome County has a strong agricultural economy. Dairy, crops, food processing provide diversified base. County is NOT in fiscal distress. Does not need energy development as an economic lifeline. Low raw score = strong economy = high weighted contribution supporting restriction.
Cumulative/Regional Pressure	6	×1.0	6.0	Magic Valley is an active target for data center and energy development. Multiple counties in the region facing applications. Gemstone Technology Park (600-800 MW) in neighboring area. Regional pressure is high and growing.

TOTAL CSPM SCORE: 80.0

This places Jerome County at the threshold of the "Ban Justified" range (80-100).

> **Jerome County's CSPM score of 80.0 supports a restrictive to ban-justified posture. The reform package's three-tier framework with categorical soil protections, BESS agricultural zone prohibition, and comprehensive notification requirements is consistent with this score. The package opts for structured regulation rather than outright prohibition, which is a MORE moderate response than the score alone would justify.**

Relationship to Other Package Documents

Document	CSPM Connection
Ch 10 (Comprehensive Plan)	CSPM framework is defined and referenced here as the analytical basis for the county's energy policy posture
Ch 11 (Energy Facilities)	Implements the restrictive posture the CSPM justifies through three-tier classification, soil protections, and review requirements
Response to P&Z (Doc 6)	CSPM dimension scores are used to rebut P&Z recommendations that are inconsistent with the county's documented posture
Legal Justification (Doc 8)	CSPM provides the structured evidentiary record that defends the ordinance against claims of arbitrary regulation
Legal Framework (Doc 15)	Documents the legal defensibility of each CSPM-justified provision
Survey (Doc 11)	Provides the data underlying the Community/Plan Alignment dimension score
Water Resources (Doc 10)	Provides the data underlying the Infrastructure Capacity dimension score (aquifer)
Data Center Crisis (Doc 9)	Documents the cumulative pressure driving the Cumulative/Regional Pressure dimension score

Process Principles

Document Everything: Every score should be supported by written findings.

Use the Public Process: The CSPM structures deliberation; it does not replace public hearings, planning commission review, or elected official accountability.

Revisit Periodically: Conditions change. Counties should build a review cycle into their ordinances.

Separate by Facility Type: The CSPM can and should be applied separately to different facility categories if conditions warrant.

Conclusion

Jerome County's CSPM score of 80.0 places it at the threshold where an outright ban would be justified and defensible. The reform package takes a deliberately more moderate approach — structured regulation through a three-tier system rather than blanket prohibition. This means the county's regulatory posture is actually LESS restrictive than what the CSPM score alone would support, which provides additional legal and political margin.

The CSPM framework ensures that Jerome County's energy policy is not based on reaction, emotion, or arbitrary decision-making. It is based on a documented, structured analysis of six measurable dimensions, each grounded in objective data. This is the foundation on which the entire reform package stands.

DOCUMENT REVISION HISTORY

CSPM Framework Application and Methodology

Version	Date	Changes / Updates	Reviewed By
v5	Mar 23, 2026	Initial creation as Document 17. Formal CSPM application to Jerome County with six-dimension scoring and threshold analysis.	J. Pierson
v6	Mar 23, 2026	Added IdahoEnergy logo to footer; integrated into 17-document package	J. Pierson

REVIEW NOTES